POLICE EXCESSES IN MANGALURU ON DECEMBER 19, 2019

A FACT FINDING REPORT

BY

ALL INDIA PEOPLE’S FORUM
NATIONAL CONFEDERATION OF HUMAN RIGHTS ORGANISATIONS
PEOPLE’S UNION OF CIVIL LIBERTIES

JANUARY 2020
“Police excesses in Mangaluru on December 19, 2019”
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1. Introduction

On December 19, 2019 there was a protest against Citizenship Amendment Act, 2019/National Population Register/National Register of Citizens in Mangaluru city that was met with police action. Two people were killed during the police firing after protests allegedly turned violent, while scores were injured and several criminal cases were filed, and several people were arrested. Some journalists too were at the receiving end of police violence, while several journalists, especially from Kerala based media, were also detained by the police and later released. The State Government and the police claim that there was no police excess and that all actions by the police and district administration was in accordance with law, whereas the civil society organizations and the opposition have refuted the same, and believe that the police action was excessive, biased and specifically targeted the Muslim community.

In the wake of this, the Chief Minister initially declared a compensation of Rs. Ten Lakh each for the families of the deceased, only to later withdraw the same. The Home Minister Basavaraj Bommai has claimed that, “People who had come from Kerala to participate in the protest also tried to set fire to a police station in Mangaluru and damaged public property. To control the mob, police had to use force”. All those arrested to date are locals from Mangaluru, and not a single person from Kerala is charged in any of the FIRs. The state government on its part has initiated a magisterial enquiry into the violence. Thus it was seen that there was no consistency in the response of various functionaries of the State Government as detailed further in this report.

1.1 The Fact Finding Team

The incidents of December 19, 2019 have shocked the conscience of the people of Karnataka. A Team of human rights and civil liberty activists from Karnataka, Kerala, Tamil Nadu and Delhi consisting of Avani Chokshi, Clifton D’Rozario, Swathi Seshadri, Venugopalan K.M. and (All India People’s Forum (AIPF)), Himanshu Kumar, Panditaradhya, Venkatraju, YJ Rajendra and (All People’s Union of Civil Liberties (PUCL)), Mohammed Nowfal and Umar Farouq (both National Confederation of Human Rights Organisations (NCHRO)) was constituted to conduct a fact finding into the same on January 1 - 2, 2020.

The following were the terms of reference of the Fact Finding:

1. Clamping of Section 144 in Mangaluru – reasons and legality.
2. Incident at Mangaluru North police station (also known as Bundar police station) leading to the killing of two persons - Abdul Jaleel (42) & Nausheen (23).
3. Protest held at State Bank area, close to the Deputy Commissioner’s office (where protests had been taking place all week) and the lathi charge here.
4. Incident of former Mayor Ashraf being brought in by the police to convince protesters and injury sustained by him.
5. Video where a higher police official can be seen stating in Kannada that roughly translates to “Why even after shots were fired not a single bullet hit and no one killed?”.
6. Incident of the police entering Highlands hospital at 6:56 pm.
7. News reports indicate that over 60 people were identified and detained by the cops after the December 19 violence.
8. Arrest and detention of journalists including Mujeeb and his cameraman Pratheesh, Media One reporter Shameer, his cameraman Aneesh, News 24 reporter Anand, his cameraman Ranjith, News 18 cameraman Sumesh and Media One driver Salik.
9. Journalists beaten up including Ismail Zoarez, journalist working for Varthabharati’s English web portal.
10. Police entering into, and firing teargas shells, in Masjid Ibrahim Khaleel, near Deputy Commissioner’s office.
11. Injuries to 66 policemen and their treatment at Wenlock Hospital, (the government-run district hospital) on December 23, including Gangaiyya Naik and Satish, who had serious injuries.
12. Internet ban from the night of 19th December for 48 hours and imposition of curfew till midnight of December 22.
13. Registration of 8 separate FIRs across different police stations of Mangaluru city, in which 78 people have been named and another 1,145 “unknown persons” are mentioned in the FIRs.

1.2 Context

Before discussing the findings of the Team into the events that transpired on 19th December, it is necessary to understand the particular history and context of Mangaluru and the Dakshina Kannada region. In a sentence it can be summed up as a divided society as a consequence of decades of communal mobilisation; the communal divide is a quotidian reality.

PUCL-Karnataka, one of the constituent organisations of the present Team, has previously analysed the social situation in the Dakshina Kannada region and released two reports – "Cultural Policing in Dakshina Kannada – Vigilante Attacks on Women and Minorities, 2008-09" (March, 2009) and "Attacking Pubs and Birthday Parties – Communal Policing by Hindutva Outfits" (September 2012). These reports analyse the social conditions that have enabled the discourse of marginalization and created the conditions for communal mobilization and communal identity in this region. It was found that the persisting social and economic conditions in the region have been systematically harnessed by the Sangh Parivar to such an extent that the "...culture of this area has steadily become very fundamentalist with the last fifteen years seeing the emergence of a strong anti-minority feeling...".

In "Cultural Policing in Dakshina Kannada – Vigilante Attacks on Women and Minorities, 2008-09" the various incidents of cultural policing where boys and girls from different religious communities were attacked merely for being together was enquired into in great detail. It was concluded that incidents of cultural policing, be it the attack on women in the pub or on anyone who dared to cross religious boundaries and interact, pointed to a new phase of communal politics, where Hindus and Muslims of different

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1 "Cultural Policing in Dakshina Kannada – Vigilante Attacks on Women and Minorities, 2008-09" (March, 2009)
sexes are generally discouraged from speaking to each other, leave alone allowed to fall in love with each other, yet, when these strictures are imposed on not just boy-girl love affairs or marriages but extends to interaction between members of different religious communities, cultural policing take on a different dimension. The Report cautioned that the “self-styled vigilante groups” had begun to police social interactions between members of different religious communities such as boys and girls drinking juice together or sitting together on a bus merely because they come from different religious communities. Importantly the report concluded that the, “Cultural policing, in its insistence that communities should not interact with each other and in its attempts to punish all those who try to live out the meaning of the Preamble’s promise of ‘fraternity’, is a fundamental attack on the very Constitutional order. The promise of fraternity held out in the Preamble is what is contested at its very roots by cultural policing. What cultural policing wants to produce are monolithic self-enclosed communities with no form of social interaction between them. It is antithetical to the idea of ‘We, the people of India’ and insists that India is no more one nation, but rather a conglomeration of separate peoples”.

In “Attacking Pubs and Birthday Parties – Communal Policing by Hindutva Outfits“, the communal policing rampant in this region was again inquired into, in the context of the attack by the Hindu Jagarana Vedike on a birthday party on July 28, 2012, in Padil, a locality in the heart of Mangaluru, and attacked both boys and girls. The Report concludes that, sadly, the birthday party attack was not an aberration but merely the repetition of an established pattern of attacks, all of which have but one aim, to police the boundaries of the community and to ensure that communities remain isolated and monolithic, incapable of forming the basic social bonds which are the very life spring of a society.

Perhaps a glimpse of the deep communalisation in the society, the embedded state of communal politics, and the impunity with which the Sangh Parivar operates in the region is the enactment of the demolition of the Babri Masjid by students (11th and 12th standard) in the Sri Rama Vidyakendra High School at Kalladka (30 kms from Mangaluru). News reports indicate that the Chief Guests for the event were Union Minister of Chemicals and Fertilizers, D.V. Sadananda Gowda; Puducherry Governor Kiran Bedi; and several Ministers from Karnataka including H. Nagesh and Sashikala Jolle².

The 20-minute presentation by about 800 children was on the story of Ayodhya and the proposed construction of a Ram temple at the disputed site. It started with BJP leader L.K. Advani’s Rath Yatra in a tableau titled ‘Somnath se Ayodhya’ with a student playing the mandir movement’s principal architect. As curtains fell, students stood in formation to show the design of the proposed temple. Kiran Bedi tweeted about the show and lauded the students’ performance stating that they should get a chance to showcase their talent at Republic Day celebrations in New Delhi³. The school is owned by the RSS

leader Kalladka Prabhakar Bhat. It is reported that the Bantwal Town police have registered a First Information Report (FIR) against four governing council members of the school namely Kalladka Prabhakar Bhat, Narayan Somayyaji, Vasanth Madhav and Chinnappa Kotiyan. They have been booked for committing a deliberate and malicious act intended to outrage religious feelings and uttering words with deliberate intent to wound the religious feelings of a person⁴.

Despite the Supreme Court concluding that the demolition of the mosque was an act of crime, the mock enactment of demolition of Babri Masjid by 11th and 12th standard students was done in full public and media glare, and watched by the Lieutenant Governor of Puducherry, Central and State Ministers. This celebration is a reminder of the current crisis in India’s evolution as a secular democracy.

Post Independence, our nation adopted the Constitution and embarked on its journey as a modern democratic republic. The RSS was very much against this Constitution and actively conspired against the very vision of a modern secular democracy. Hindu Mahasabha’s V.D. Savarkar, in his articulation of the two-nation theory, would not accept Muslims as part of the Hindu nation, yet would also not concede to the demand for a separate country for them and opposed the demand for Pakistan. The question then arises as to what happens to the Muslims then. M.S. Golwalkar of the Rashtriya Swayamsevak Sangh had this to say about the status of Muslims in India: They “... may stay in the country, wholly subordinated to the Hindu Nation, claiming nothing, deserving no privileges, far less any preferential treatment — not even citizen’s rights”. Fortunately, our forefathers rejected this idea and adopted the Constitution with secularism as one of its central values⁵. The incompatibility of the RSS with the idea of a secular democratic India compelled India’s first Home Minister, none other than Sardar Patel to ban the RSS soon after the Gandhi assassination and only revoked the same on obtaining undertakings from Golwalkar and coming to the conclusion that “the RSS organisation should be given an opportunity to function as a democratic, cultural organisation owing loyalty to the Indian Constitution and recognising the National Flag eshewing secrecy and abjuring violence”⁶.

However, the RSS and the various organisations it spawned – the Sangh Parivar, have dedicatedly spent the past decades since, to embed the notion of Hindu supremacy as the basic thought of large sections of common Hindus. Its endeavour has been to build a

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⁴ “RSS leader, 3 others booked for making school children enact Babri Masjid demolition” https://www.indiatoday.in/india/story/4-booked-in-rss-school-that-made-students-enact-babri-masjid-demolition-on-stage-1628942-2019-12-17

⁵ The founding fathers of the nation were united in their vision of India being a Secular country given the diverse religious beliefs of its people. This was expressed in the Constitution with where secularism as one of its basic values. Besides the Preamble, there is Article 15 that prohibits the state from discriminating between citizens on the ground of religion; Article 16 that prohibits the state from discriminating between citizens in matters of public employment on the basis of religion; Article 25 that ensures all persons freedom of conscience and free profession, practice and propagation of religion; Article 26 that ensures freedom to all religious denominations to establish and maintain institutions for religious purposes and manage its own religious affairs; Article 27 that protects ever person from being compelled by the government to pay taxes for promotion of any particular religion; Article 28 which bars any religious instruction in educational institutions maintained wholly out of state funds; Article 325 provides that no person can be ineligible for inclusion in an electoral roll or can claim inclusion in a special roll on the grounds of religion.

⁶ “When Sardar Patel Took on the 'Forces of Hate' and Banned the RSS” https://thewire.in/history/sardar-patel-rss-ban-1948
common-sense and public consensus for this project and polarize society on religious identities. The setting up the Muslim and Christian as the "other" is central to its political project of Hindu Rashtra\(^7\).

Even as the Sangh Parivar pushed on with its agenda it has had to face its biggest hurdle in secularism. What does this secularism mean has come to be interpreted by a nine-judge Bench of the Supreme Court\(^8\) as follows: "...How are the constitutional promises of social justice, liberty of belief, faith or worship and equality of status and of opportunity to be attained unless the State eschews the religion, faith or belief of a person from its consideration altogether while dealing with him, his rights, his duties and his entitlements? Secularism is thus more than a passive attitude of religious tolerance. It is a positive concept of equal treatment of all religions... Any step inconsistent with this constitutional policy is, in plain words, unconstitutional".

The communal situation in Dakshina Kannada region is a result of decades of communalisation by the Sangh Parivar, which has harnessed the inequality and poverty there, to create a communally polarised and divided society. Savarkar's two-nation is in practice in Dakshina Kannada and the events of December 19, 2019 and thereafter confirm this.

2. What happened on December 19, 2019?

The Team has tried to piece together the events of December 19, 2019 on the basis of the testimonies of people it met, newspaper reports and videos that are in wide circulation. The following chronology emerges:

Witnesses also told the Team that on December 18, 2019 itself, preparation had already been made, with sandbags piled on the sides of the road. It appears that the Police had already planned and prepared for a heightened conflict.

One of the people we met told us, "We had asked for permission on 20\(^{th}\) for doing a protest in Nehru Maidan. The police did not give permission for that. Instead they gave us permission for 19\(^{th}\) in front of Commissioners office. We told them that it is a busy market place and asked them how they will control the crowd. We also told them that if they have given permission, they should not stop people from coming to the protest otherwise it will become a fight.

\(^7\) The reason attributed for this has been that Muslims and Christians would never be loyal to the nation since their loyalty lay in Mecca and the Vatican respectively. In the words of Savarkar, “The tie of a common Holyland has at times proven stronger than the claims of a Motherland... Look at the Mohammedans. Mecca to them is a sterner reality than Delhi or Agra.” It is only for the Hindus who owe their utmost loyalty to India since, as Golwalkar stated, it is their pitrubhoomi (fatherland) and punyabhoomi (sacred land). How then are these Muslims and Christians to be treated? Golwalkar answers this: “The non-Hindu peoples in Hindusthan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no idea but those of glorification of the Hindu race and culture i.e., they must not only give up their attitude of intolerance and ungratefulness towards this land and its age-long traditions but must also cultivate the positive attitude of love and devotion instead—in other words they must cease to be foreigners, or may stay in the country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less preferential treatment—not even citizen’s rights. There is, or at least should be, no other course for them to adopt. We are an old nation; and let us deal, as old nations ought to and do deal, with foreign races, who have chosen to live in our country.”

\(^8\) S. R. Bommai v Union of India (1994) 3 SCC 1
In the meanwhile, Section 144 was imposed from the night of December 18, 2019. The organisers, had informed as many people as they could. However, some people did not receive the information, nor did they realise that with the clamping of Section 144, the permission stood cancelled. As the Team learnt: "They gave us permission on the 18th and in the evening they imposed section 144. A lot of publicity had already been done for the 19th protest. Several people did not know that if section 144 was imposed then the protest would stand automatically cancelled. If the police had just told the people who gathered that there was section 144 and they should leave in half an hour, surely the people would have dispersed”

Such a group of about 150 people started gathering at the designated protest site near State Bank of India (SBI) around 1.30 p.m., when the first incident. According to a journalist who was present on the spot, "There were less than 150 youth who had gathered and were sloganeering. The Karnataka State Reserve Police (KSRP) were also there along with the normal police force. This was around 2.00 p.m. At this point the police told them to sit down near SBI and do their protest. When they settled down the police and KSRP resorted to lathi charge and chased them from the spot. At this point the police were indiscriminately lathi charging anyone who was standing there, including the street vendors and passers-by. Some people were picked up and thrown into the police vans. This area is a very crowded area since it is a commercial area, has a large bus stand and also has a large floating population of students. The police even beat up one of my journalist colleagues, who had his press card with him.”

As one victim testified, "There was no need for any lathi-charge. People would have protested for sometime and left. Instead the police started beating up people. Or the police could have put the protestors in a bus and detained them. Why did they do lathi-charge?”

From the videos circulating widely, it is apparent that the number of protestors was not more than 150 and that they were merely shouting slogans. The Team was informed that the protesters, without any provocation in a premeditated manner, were violently thrashed, kicked, pushed around and abused before being thrown into police vans. From the videos viewed by the Team, it appears that the police have used disproportionate force and violence if its effort was to disperse the protestors.

The Team was informed that, after the lathi-charge, about 60-70 people were detained by the police and taken to the Mangalore Town hall where they were detained till the evening. There, they were released after their details were taken to file FIRs against them. As per the testimonies of witnesses, all the people detained have been charged in the FIRs registered in regard to 19th December. However, one person, Manjesh, who had also been detained was released without any FIR being lodged against him.

9 The Team is given to understand that several people who were at the receiving end of police brutality including media persons have approached the police and other concerned authorities for criminal cases to be registered against the police and for action to be taken against them for their conduct on 19th December, some of which are referred to in the course of this Report.
According to one detainee, the police behaved in a completely prejudiced and communal manner. Any Muslim who was in the vicinity of SBI was considered as a protestor and beaten up or arrested. There is a bus stand nearby and several students of were waiting there or walking to the bus stand were severely beaten up and some were arrested as well. The police also lathi charged the Muslim street vendors in the area, even though they had nothing to do with the protest. Even while chasing the youth who had gathered for the protest, the police beat up any Muslim it found notwithstanding that they were mere passers-by. As one victim tragically remarked, "We were picked out merely because we looked our religion. I was just minding my business near my cart. The police hit me only because of the way I looked. Maybe we have not yet reached the UP level of communal policing, but was seen here is clearly illegal and targeting of the Muslim community".

Zafar, a handicapped person, who has lost his right leg from just below his knee and uses a prosthetic leg, was one of the victims of this lathi-charge. He told the Team that, "I work in Bengre on the ferry boat as a ticket seller. I had arrived at State Bank and had waited for 5 minutes for an auto. Suddenly lathi-charge started and people were running all over the place. I was pushed to the ground and fell. Before I could get up a policeman came and started beating me up. I showed the police my prosthetic leg and told him that I am handicapped. Despite this the policeman continued beating me. I called my son who was himself not well and was in Bengre hospital. It took my son an hour to reach State Bank to take me home. The next day I experienced extreme pain in my right leg and went to another hospital in Mangaluru and then came to Highland hospital where has been conducted on my leg for fracture."

Thereafter, there are videos of Police Officer Shareef saying that if the protestors continue their protest, they can be fired at.

It appears that thereafter, the Police also selectively vandalised shops and commercial establishments, in the vicinity, besides pulling out people, selectively attacking Muslims. The Team visited some of these shops and spoke to the owners and workers there and learnt that the police threw stones and barged into their establishments.

It appears that hereon there was stone pelting that began. As one witness informed the Team, "The stone pelting started only after the lathi-charge. Then, the police started using tear gas. The targets were totally Muslim. The forces went into apartments, shops,
and only pulled Muslims out. Firing was started by the KSRP and the police forces against the protesters, which continued till 4.00 p.m., for more than half an hour.”

The police barged into various office buildings, including that of the South Kanara Sufiana Movement (SKSM). Testimonies showed that in the SKSM office, there were two employees in office, who escorted some women from other offices down to the road. Thereafter, the two young men pulled down the shutter to the building staircase when the police descended upon them, pelting stones at the building and breaking a window. The police then ran into the building and entered the office of SKSM. One of the men, Ashfaq, was detained in the police van for half an hour.

The Team was informed that after the lathi-charge the police did not let the situation rest and instead, as pointed above, barged into and vandalised properties of Muslims and arbitrarily beat up Muslims they found on the road. During this time, at around 4.00 p.m., the police also came down on the Masjid Ibrahim Khaleel, where about 70-80 persons were praying. From what the Team learnt, the police went chasing after the people they had lathi-charged. It is in these circumstances that a very serious incident took place, which is described in detail below. Suffice to state that there are videos and photographs confirming that the police pelted stones and fired teargas into the confines of a mosque through and above the slats of the mosque gate, causing havoc and placing at grave risk those who were inside the masjid.

Tear gas canister lodged in the beam of the Masjid Ibrahaim Khaleel: one found on the premises

The Team was told that there was a certainty of belief in the community that the entire attack by the police forces was both premeditated, and a materialisation of the communalisation of police. Obviously, the unprovoked lathi charge coupled with the attack on innocent people during prayers at the mosque and the targeting of Muslim shops and vendors infuriated the youth, leading to bands of protesters gathering at corners and intermittently pelting stones. This began a second round of heightened conflict between the Police and people.
The Police instead of managing the situation, themselves pelted stones and started indiscriminate firing into the crowd.

Pertinently, a number of those pelting stones at the protesters and conducting lathi charge were people in civilian clothes. There is a lack of clarity about whether such persons were plain-clothes policemen or anyone else, with allegations being made that they were members of the Sangh Parivar.

The leaders of the community were brought in by the police to try to calm the situation. Ashraf, the former Mayor had received a call at around 3.30 pm regarding the situation near the Mangaluru North Police Station and that several of the wounded had been taken to Highland Hospital. He initially rushed to the hospital and also contemplated going to the site of tension. He called the Commissioner of Police offering to go to the site and help calm the situation, who asked him to come. In a short while, however, he received a call from the Commissioner of Police asking him to come to the site. Upon reaching the site he observed, “There were many people in the Masjid. It was time for the Asr Namaz and there were 40-50 people inside. We went there and got them out. Then I was walking near Bombay hotel. Firing was going on. Tear gas was also being used. Friends told me not to go further. So I went to the Jamat-i-Islami office on Bibi Alam road. There were about 150 boys there. There were many boys from there, whom I dispersed. Near the old petrol bunk tear gassing was going on. Inspector Shantaram was there. So I moved from the Jamat-i-Islami office towards the junction where the firing was going on gesturing with my hands raised to stop the police from continuing firing. At that time something fell on my head and I fell to the ground. I don’t know if it was a stone or a tear gas canister. I have 15 stitches on my head.” This definitely served as one of the triggers to aggravate the situation.

Two innocent bystanders were killed during this indiscriminate firing, both of which took place on Azizuddin Road, where the Mangaluru North Police Station is located. One of them was a Late Shri Abdul Jaleel, 42-year old father of two who was a daily wage earner on the docks, who had stepped out of his house to offer Namaz. Apart from intermittent
protests by small groups of people there no mob present, yet tear gas and bullets were being fired into the road, one of which hit the Late Abdul Jaleel in the head. In another incident on another end of Azizuddin Road, 23-year old Late Nausheen who was attempting to return home from the workshop he was working at, fell prey to the blind and indiscriminate firing when a bullet hit him in his midriff.

Throughout the lathi-charge and firing, testimonials show that the police had videographers taking continuous recordings of the incidents. According to, the recordings and testimonies given by the people, it appears that the police used language derogatory to Muslims and communal in nature.

At about 6.15 p.m. the police reached the gates of Highland Hospital where the deceased and the injured had been brought by the public for treatment. There were about 50 people in addition to attendants of other patients standing on the road. The police came in riot gear (not in their regular uniforms) and tried to enter the hospital, which the people objected to. In the ensuing melee there was stone pelting, tear gas firing and lathi charge, and the police chased the people and entered the hospital. There were many people in the lobby and in the corridors who were basically attendants and visitors of patients already admitted. When they saw the police barge into the hospital, they ran back into the rooms. The police, chasing people tried to enter the ICU and patients’ rooms. They did not bother to check who was staff, who was a patient and who was a visitor. Tear gas was fired within the premises of the hospital, which was followed by the police barging around the hospital corridors and rooms.

At approximately 7.00 p.m. on December 19, 2019, curfew was imposed.

According to Rajeshwari Devi, District Medical Officer, Wenlock Hospital, people started coming to the Casualty department in hospital from 3.35 p.m. onwards. While the initial admissions in the MLC register mentioned ‘Assault by Police’ and ‘Police lathi charge’ as cause for injury, it appears that the hospital had been instructed to stop using these terms as the subsequent causes recorded was ‘Stone pelting’.

A total of 66 patients received treatment at the Wenlock hospital on December 19, 2019, out of this, 42 were from the police and 26 were civilians. People came with complaints of lacerations and swelling. 2 police were admitted for a day for observation. Civilians took primary medication and went to a private hospital. On December 20, 2019, the police brought 8 people who had been arrested, for medical clearance. Police continued to get treatment from the OPD till the 22nd December. Apparently there were conscious attempts on the part of the police to make it appear that the number of policemen injured by the alleged stone pelting by the mob outnumbered civilians who suffered
injuries from violence by police. The cases of police treated in Wenlock Hospital were mostly related to bruises, lacerations, contusions and swelling. There were 2 cases of bullet injuries in which one of the victims admitted took discharge immediately. There were several instances of victims who the Team met who have not gone to Wenlock or other big hospitals for fear of being falsely implicated by the police since the FIRs registered by the police around the events of 19th December are open FIRs which serve as a constant threat.

2.1 Attack of Masjid Ibrahim Khaleel

The Team visited the Masjid Ibrahim Khaleel and met with around 20-25 persons there. From their testimonies, it is learnt that around 70-80 persons were in the masjid at that point doing Namaz. Gunshots were heard by them at around 4.05 p.m. The Masjid is located on the main road itself and is reached from the main road by a corridor about 15 feet wide and 30 feet long, at the end of which is a 5ft high sliding gate to enter the Mosque. This is the only entry and exit from the Masjid. The Team learnt that the sliding gate of the Masjid was closed and about 50 policemen had gathered on the main road at the entrance to the corridor. According to one of them, “The police fired teargas and pelted stones through the gate. More than 100 of us were in the Masjid when this happened. We were stuck there for more than an hour. All of us had tears in my eyes because of the tear gas and people were putting water on their faces. Everyone was petrified that they will get seriously injured or worse die. Somehow we tried to escape the stone pelting by the police.”

Another witness, Naasir, told the Team that after they closed the gates, the police pelted stones and fired tear gas on the more than 70 innocent people inside. He stated that they were released from the masjid only after the passage of more than one hour.

The Team was also informed by Aslam that he had emerged out of the Masjid when firing had stopped for a few minutes. He was just opposite Jaleel, and was covering his eyes since there was tear gas all around. He was hit by a shell then. Due to the injuries sustained in this, he was admitted to Highlands Hospital where he underwent surgery and treatment for more than a week.
The Team is constrained to conclude that the manner of attack on a religious place was definitely avoidable and only seems to have been carried out due to an anti-Muslim mindset. Another reason that the conduct of police cannot be countenanced is that the Masjid is a confined space with only a single entrance / exit, and as such did not warrant that kind of police action. This also endangered the safety of all those in the Masjid, which is inexplicable within these conditions. The actions of the police outside the Masjid, that have been captured on video and widely circulated, undermines any notion of neutrality of the police and is a big question mark on the Rule of Law. The Police Department and the State Government would have well served society if they had viewed this incident, irrespective of all other incidents of the same day, with the seriousness that it warranted and initiated immediate action against the defaulting officers.

2.2 Police Firing

The Team met the families of the 2 people who were killed in police firing. Late Abdul Jaleel (aged about 42 years) worked as a labourer at the Mangalore fish market. He is survived by his wife, Smt. Sayeeda and two children; daughter Khatija Shifani studying 9th standard and son Muhammad Sabeel. The Team met with Smt. Sayeeda wife of the Late Abdul Jaleel. She informed that on December there was some commotion because of the protest against the anti-people CAA due to which they were worried about their children and so she asked the Late Abdul Jaleel to to bring their children back home from school, which he did. After this, since it was time for namaz, her husband stepped out to go to the Badriya Masjid, and even as she was watching him from her window, she saw him reach the road in front of the house, when he was shot in the head by the police. This incident happened right in front of her eyes. She is alarmed that despite this, the police has falsely accused him of pelting stones and a criminal case is registered against him. She informed us that she had submitted a written complaint to the Station Officer at the Mangaluru South Police Station, in Pandeshwar, soon after her husband was killed for no reason except police highhandedness, yet no FIR has been registered to date in this regard. She has filed a complaint with the SHRC on December 31, 2019 (Annexure 2).

The Late Nausheen (aged about 28 years), worked as a welder. Nausheen’s father shared that, “He had come home for lunch and then returned to the shop. Nausheen and his cousin used to work together. It was the end of the work day and both the boys were returning from work around 4.00 p.m. They entered Azizuddin Road and turned in the direction of their home. It was at
this time that he was shot in the back. There were about 200-300 people on the road. Nothing was happening, but the police were firing indiscriminately. It appears they just wanted to kill people.” The family members are incensed that the police have cooked up a false story that the Late Nausheen was pelting stones and had filed a complaint with the officer-in-charge at the Mangaluru North Police Station but the police have failed to act on the same. His sister Naufal has filed a complaint with the SHRC on December 31, 2019 (Annexure 3).

Below is the police complaint filed by Mohammed Saahil regarding the killing of his cousin Nausheen:

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Date: 27.12.2019
Mangalore

From,
Mohammed Saahil,
s/o Ismail,
22 years,
Near Kamat Rice Mill,
Hyder Ali Nagar, Kudroli,
Mangalore

To,
Hon'ble Police Commissioner,
Mangalore

Subject: Regarding killing of my uncle’s son Nausheen in the Police firing

I and my uncle’s son, Nausheen went for welding work at JN Road R K House (???) like any other day. Today, on 19/12/2019 at 4:30 pm, while we were on our way back from namaz at Zeenath Baksh Juma Masjid, near the JM Road Steel Center, several police personnel came shooting with a gun towards us and shot at my uncle’s son Nausheen on his back, and as a result he collapsed. I along with others rushed Nausheen to the hospital in an autorickshaw, but the treatment was ineffective and Nausheen died. That I have seen it with my own eyes of police killing my uncle’s son, Nausheen with a gun shot. I request you to take legal action against the Police personnel who shot Nausheen and killed him.

Mangaluru
Yours faithfully

Date: 19/12/2019

A FIR on this incident has already been registered as 133/2019 and is under investigation. For further steps.

Station House Officer,
NORTH POLICE STATION,
Bunder, Mangalore (D.K)```

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Incidentally Cr. No. 133/2019 has been registered on the complaint filed by Shri. Arunangshu Giri (DCP, Law and Order) in which it is alleged that on December 19, 2019, between 4.15 and 5.30, some 1500-2000 Muslim youth were protesting against CAA in violation of Section 144 that was promulgated, bearing deadly weapons including jelly stones, sticks, soda bottles, glass pieces, and other deadly weapons, and that they conspired to set fire to the Mangalore North police station and kill policemen, in furtherance of which they came close to the police station and threw stones and burning tyres at the police station, at which time the police tried to disperse the crowd using a megaphone but they did not disperse and continued to pelt stones, hence lathi charge was carried out on the mob to disperse them but they re-congregated and continued to throw stones, due to which the police were injured, and that to control the riot and prevent harm to life and property, the police fired due to which 2 persons died when they were taken to the hospital and 5 others were in injured.

Shri Late Jaleel and Shri Late Noushin are arraigned as accused No. 3 and 8, respectively. This is perhaps the unkindest cut of it all.

The Team, at the time of writing this Report, has learnt that the families of the two persons killed in police firing have written letters to the Hon’ble Chief Justice of the Karnataka High Court to bring to attention the circumstances under their lives were lost. They have sought for a judicial enquiry for the reason that the very persons involved in the incident are now investigating and also seeking the role of police who did the firing, those who ordered it and the higher police officials be investigated.

There were a total of 7 persons persons who received bullet injuries. The testimonies of some of the victims of bullet injuries are below:

**Nazir, 22 years, Unity Hospital (name changed)**
Nazir is an M.A student studying distance education. His father runs an autorickshaw. Nazir had gone to the market and he got 1 bullet injury. The bullet has lodged itself in such a way that it can’t be removed. If it is removed it could be fatal for him. He has started eating only today (01.01.2020). Doctors have said that his treatment will continue and cannot say when he can be discharged.
Mir Sheikh, 18 years, Unity Hospital (name changed)
I study in Srinivas College. I am studying BE 1st year. I am from Ripponpet in Shimoga district.

I had applied for a scholarship and had come to the market to do e-verification. But the office I had to go to was closed for lunch. I was walking at State Bank when they started doing lathi charge. I ran to the masjid (not Ibrahim Khaleel), another one a little further away in Bandar. There I finished offering Asr Namaz and came out at 4.30 pm. to go to my college. When I came to Azizuddin Road, they chased me. I was then shot in the leg. I lost consciousness. First they took me somewhere and did first aid. Then they brought me here to Unity and I regained consciousness. They have removed the bullet from my leg. But the bone in my leg is fractured. They have put a rod. I have been advised to rest for 10 months. They have also filed a case against me. They took my statement. In the statement they wrote that I was in the protest. But I told them I was not there, still they insisted on writing that. They also left lots of blank space at the end of the statement and made me sign at the bottom of the page.

My exams are going on. I have missed one paper. I will try to take the next paper. My father is a farmer. With difficulty he has sent me here to study. If I knew that there was Sec 144 and that all this would happen, I would not go to the market that day.

2.3 Attack on Highlands hospital

Highland Hospital where many of the seriously injured were admitted, reported that there were 5 persons were admitted with bullet and shell linked injuries and another 5 injured in lathi charge. This is apart from Jaleel and Nausheen.

The hospital administration reported that after Abdul Jaleel and Nausheen were declared dead on arrival by Highland Hospital, the police was called so that the bodies could be handed over to them as these were Medico Legal Cases (MLC). As per legal procedure, bodies of the deceased are to be handed over to the police who conducts prescribed formalities and then hands over the bodies to the family.

In the meantime, family and friends of the deceased started gathering at the hospital. On December 19th in addition to the attendants and visitors of the other patients about 50 people had gathered outside the hospital, according to the hospital administration.
The police, in full riot gear, arrived at the hospital and tried to enter the same. This led to a confrontation with those gathered outside and lathi-charge and stone pelting outside the hospital. The hospital administration speculated that people who had been provoked by the incidents of the entire day along with seeing the police arrive at the hospital in riot gear might have caused this reaction to the police outside the hospital. The police engaged in lathi charge outside the hospital and then barged into the Hospital under the pretext of chasing these protestors. They fired tear gas in the compound of the hospital as well as in the lobby. Several attendants of the admitted patients had come out of the rooms to see what was happening. When the police barged then, they also started running back to their rooms. The police did not differentiate between visitors and staff. According to the hospital administration and videos available suggests that the police tried to enter the ICU and patient rooms located on the main level of the hospital. Latches of some rooms were broken in this attempt, but the attendants managed to keep the police at bay.

Divyaraj Rao who works as a night office administrator in the hospital has filed a complaint with the police but no FIR has been registered. The complaint that was filed is as follows:

Dated: 27.12.2019
Mangalore

From,
Divyaraj Rao,
S/o Prabhakar Ganigi
Aged 38 years
Residing at Padmashri House,
Subrahmanya Nagar, Santakatte Post
Udupi – 576 105

To,
Police Commissioner
Mangalore

Subject: Regarding police atrocity by trespassing and tear-gas shelling at Highland Hospital

I have been working as a night office administrator for the past three months at Highland Hospital and on 19.12.2019 around 6.30 and 7.30 an attack was made by the police on innocent people at Mangalore where the police shot at people and those injured in this incident were admitted to our hospital. At this time, 20 police officers including the Police Inspector Lokesh and Sub-inspector Rajendra of Pandeshwar Police Station entered the hospital and at once started creating a ruckus and caused trouble to the in-patients admitted at the hospital and have also damaged hospital property. Without any provocation, they kicked the door of Room No. 104 and tried to barge in where the patient admitted was in a fragile condition, and have also entered the ICU illegally and without following the rules of the hospital. This incident was witnessed by
the hospital staff and has also been captured in the CCTV camera of the hospital. I request you to initiate legal action against the errant police officers and personnel. The Hospital Management have filed a complaint with the Pandeshwar Station Officer, who received the complaint and has refused to file an FIR, and hence this complaint is being brought to your notice.

This incident has instilled fear in me and hence the delay in lodging this complaint.

Yours Sincerely,

Sd/-

[Divyaraj Rao]

Atleast 3 patients who were admitted there prior to December 19th were adversely affected due to this. The health of 2 patients who were admitted with respiratory issues deteriorated and had to be shifted to the ICU and one of them was put on a ventilator. Another patient whose room the police tried to barge into was left traumatised and passed away a few weeks later. The hospital staff were also not able to do their duty and respond adequately to those who were affected by the tear gas.
Padmanabha, an employee of the hospital who works as a receptionist has filed a police complaint on December 27, 2019, which has been reproduced below:

Dated: 27.12.2019
Mangalore

From,
Padmanabha
S/o Anand
Aged 39 years
Residing at Suvasini Nilaya
Kalayi Bikkarnakatte,
Kulashekhara, Mangalore

To,
Police Commissioner
Mangalore

Subject: Regarding police atrocity by trespassing and tear-gas shelling at Highland Hospital

I have been working as the night Receptionist for the past one year at the Highland Hospital and on 19.12.2019 around 6.30 and 7.30 an attack was made by the police on innocent people at Mangalore where the police shot at people and those injured in this incident were admitted to our hospital.

At this time, 20 police officers including the Police Inspector Lokesh and Sub-inspector Rajendra of Pandeshwar Police Station entered the hospital and at once started creating a ruckus and caused trouble to the in-patients admitted at the hospital and have also damaged hospital property. Without any provocation, they kicked the door of Room No. 104 and tried to barge in where the patient admitted was in a fragile condition, and have also entered the ICU illegally and without following the rules of the hospital. This incident was witnessed by the hospital staff and has also been captured in the CCTV camera of the hospital. I request you to initiate legal action against the errant police officers and personnel.

The Hospital Management have filed a complaint with the Pandeshwar Station Officer, who received the complaint and has refused to file an FIR, and hence this complaint is being brought to your notice.

This incident has instilled fear in me and hence the delay in lodging this complaint.

Yours Sincerely,
Sd/-
[Padmanabha]
One of the patients was admitted to the hospital with a heart problem and was in a room on the 4th floor. The Team met the family who shared that since the windows of the room were open tear gas wafted into the room. Around 3.30 am his condition deteriorated and he was admitted in the ICU. On admission the patient had been informed that he would be discharged in 2-3 days, however he had to continue staying in the hospital for another 2 weeks because of this. The family shared that they were struggling to pay the bill which ran up to Rs. 1,58,000 with ICU charges itself being Rs. 90,000, an expense incurred only because of the police tear gassing the hospital. The patient was a daily wage earner who has has 2 sons and 2 daughters. The younger son on whose income the family depends on, works in a departmental store earning Rs. 300 per day.

Shekhabba, 65 years was admitted in the hospital around December 15, 2019. He was to be discharged in a few days. His room was located right near the entrance of the hospital. 4-5 police tried to force the door open into Shekabba’s room. The latch and some tiles near the door broke. But the attendants held the door closed. When the Team visited him, he hadn’t been able to eat any food. The hospital administration said he was mentally traumatised by the incident. The Team has received information that he passed away on January 9, 2020. Shekabba was a daily wage earner. He used to work at the docks and then in the mango business. Shekabba is survived by 2 sons and a daughter. The family is not sure how much they will end up paying the hospital due to the extra days of stay in the hospital. Below is a police complaint filed by Shekabba’s brother-in-law Julaika Aka Julaika.

Dated: 27.12.2019
Bengaluru

From,
Julaika aka Jhulaika
W/o Late Ismail
Aged: 46 Years
Residing at: 4 th Block,
Katipalla, Surathkal,
Mangaluru.

To,
Police Commissioner,
Mangaluru.

Subject: Regarding police atrocity by trespassing and teargas shelling at Highland Hospital
I, residing at the address mentioned above, was with my brother-in-law who was an in-patient in Room 104 of the ground-floor of the hospital, as he was suffering from fever and breathing difficulties. On 19.12.2019, at around 6.30 and 7.30 PM there was a shoot-out against innocent people in Mangalore, where several of the injured in this incident were admitted at the Highland Hospital, where I was with my sister-in-law's son Sarfaraz, s/o Shekhabba and their relative Safwan s/o Abubakkar in the room, when about 20 police officers who were trying to disperse the crowd gathered at the hospital, including Police Inspector Lokesh and Sub-inspector Rajendra of the Pandeshwar Police Station, who then tried to barge into our room with bad intentions by banging on the doors of room no. 104 when we were inside, at which time, my relatives present, stood against the door to prevent their entry. My brother-in-law who was receiving treatment, along with my other relatives were verbally abused with expletives and threats to their life were issued by the police. In addition to this, the health condition of the patient deteriorated because of the tear gas shelling and he is in a serious condition due to this. The atrocity of the police has put my brother-in-law Shekhabba through mental trauma. In this context, I, along with my relatives Sarfaraz and Safwan, as well as a few hospital staff and a few in-patients and their relatives, are eye-witnesses to this incident.

This incident has instilled fear in me and my relatives, and hence the delay in lodging this complaint.

The Hospital Management have filed a complaint with the Pandeshwar Station Officer, who received the complaint and has refused to file an FIR, and hence this complaint is being brought to your notice.

The actions of the police have been captured in the CCTV cameras of the hospital. Therefore, legal action must be initiated against the errant police officers.

Yours
Sincerely,

Sd/-
[Julaika aka Jhulaika]
Date: 31/12/2019

Mangalore

From,
Abdul Nazeer,
s/o Ismail S.M.,
Aged 35 years,
Residing at: Saale Thota House,
Ulayibettu Post & Village,
Mangalore

To,
Police Commissioner,
Mangalore

Subject: Regarding atrocities committed by Police by firing teargas after illegally entering Highland Hospital

I have been working as an autorickshaw driver in Mangalore for the past 4 to 5 years. On 19.12.2019, I had visited the Highland Hospital between 6:30 to 7:30 PM to see relative of mine, one Sheikabba who had been admitted in Room no. 104 of the hospital for respiration-related illness. At that time, a few innocent persons who were attacked by the Mangalore Police and fired upon were admitted in the hospital too. At that time, 20 Police personnels comprising of Police Inspector Mr Lokesh, whom is familiar to me and Sub-inspector Rajendra of the Pandeshwar Police Station barged into the hospital one after another creating a ruckus in the hospital and caused trouble to the patients admitted in the hospital and have also caused damage to properties belonging to the hospital. And without any reason, the Police tried to enter Room no. 104 by kicking the door, and that due to teargas firing, the medical condition of the patient in Room no. 104 has further deteriorated and his situation is serious, and the Police have entered the hospital ICU illegally in violation of the hospital rules. That I am an eye-witness to this incident and some members of the hospital staff are also witnesses to this incident. The CCTV cameras in the hospital have recorded the footage relating to this incident. I request you to take appropriate action against the Police Officer and his staff who have abdicated their responsibilities.

Although the hospital administration filed a complaint regarding this incident with the Station Officer at the Pandeshwar Police Station, they have refused to register an FIR. Hence, I am bringing this complaint to your notice.

Since I was terrified after this incident, there has been a delay is filing this complaint.

Yours faithfully,

Abdul Nazeer
Date: 27.12.2019
Mangalore

From,
Mohammed Nissar,
s/o Mohamed Basheer,
Aged 28 years,
Residing at: Gudde House,
Akkarekere, T.C Road,
Ullal, Mangalore

To,
Police Commissioner,
Mangalore

Subject: Regarding atrocities committed by Police by firing teargas after illegally entering Highland Hospital

I have been working as a night cashier in the Highland Hospital for the past 2 years. On 19.12.2019, between 6:30 to 7:30 PM, a few innocent persons who were attacked by Mangalore Police and fired upon were admitted in our hospital. At that time, 20 Police personnel comprising of Police Inspector Mr Lokesh and Sub-inspector Rajendra of the Pandeshwar Police Station barged into the hospital illegally one after another creating a ruckus inside the hospital and caused trouble to the patients admitted in the hospital and have also caused damage to the properties belonging to the hospital. And without any reason, the Police tried to enter Room no. 104 by kicking the door with their legs, and due to firing of the tear gas, the medical condition of the patient in Room no. 104 has further deteriorated and his situation is serious, and the Police have entered the hospital ICU illegally in violation of the hospital rules. That some other staff members of the hospital have also witnessed this incident and that the CCTV cameras in the hospital have recorded the footage relating to this incident. I request you to take appropriate action against the Police Officer and his staff who have abdicated their Responsibilities.

Although the hospital administration filed a complaint regarding this incident with the Station Officer at the Pandeshwar Police Station, they have refused to register an FIR. Hence, I am filing this complaint before you.

Since I was terrified after this incident, there has been a delay in filing this complaint.

Yours faithfully,
Mohammed Nissar
Above are police complaints made on behalf of employees and patients of Highland hospital. It is very clear that the Police has acted in violation of the law, the Karnataka Police Manual as well as every ethical practice expected of those who are supposed to maintain law and order. Hospital staff were obstructed from conducting their duty, patients already admitted in the hospital had to go through severe discomfort including facing a set-back in their illnesses and causing the death of one person.

Even in wartime, it is an internationally accepted practice that hospitals, medical establishments, and patients are to be spared. This is an instance where a hospital has become a theatre of police brutality. The Police has to hold itself accountable for its actions.

2.4 Attack on journalists
It was widely reported and is accepted that several journalists from media houses in Kerala were detained for 7 hours by the police on 19th December, and were denied food, water, access to bathrooms. Their phones and cameras were seized. They were reported as stating that they had been treated like criminals until they were released at the Kerala border. Three of the reporters claimed to have government accreditation on their person, whereas the rest had only identification cards at the time of their arrest and detention.

There were also reports that a local reporter, Ismail Zaorez, had been severely beaten up despite displaying his identity card.11

The Team visited the office of Vartha Bharati and spoke with Ismail there. As per his testimony, he came to know of the protests after noon, and reached the venue by 12.30 - 1.00. According to him, at that time, nothing was happening. At around 1.45 - 2.00 p.m., he said a peaceful protest of around 100 people took place, which was violently dispersed by the police through using lathi charge. He further stated as follows:

"Another set of protests started thereafter. At this time, the police lathi charged on all the people in the vicinity, including bystanders and reporters. A policeman snatched my id card, and then they charged at me and beat me. It was only when my colleagues questioned the police about why a journalist was being attacked that my id card was returned to me, and the police pretended that they had not known I was a journalist. But factually, they all know that I was a journalist. Some people have suggested to me that I was attacked because I report for a progressive newspaper."

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10 https://www.telegraphindia.com/india/journalists-locked-up-in-mangalore/cid/1729078
11 https://thewire.in/communalism/mangaluru-CAA-protests-police-ground-report
The Bureau Chief of Vartha Bharati has filed a complaint dated 26.12.2019 with the Dakshina Kannada District Working Journalists Association in this regard.

### 3. Breach of Rule of Law

#### 3.1 Clamping of Section 144

By virtue of clamping Section 144 and banning internet services, restrictions have been forced on ordinary citizens that affect their normal life including education, access to health, trade, etc. In a democracy these cannot be at the whims and fancies of those in power or the administration and any restrictions have to be imposed strictly in respect of the rule of law.

On December 18, 2019 the Commissioner of Police, Mangaluru City who is also the Additional District Magistrate issued an Order bearing No. M.A.G/443/Mum.Na/2019, clamping prohibition between 09.00 p.m. on December 18, 2019 to 24.00 hrs on December 20, 2019, in exercise of powers under Section 144 of the Code of Criminal Procedure. By virtue of this prohibitory order, range of activities were made impermissible including the holding of public rallies and protests. A careful reading of this Order reveals that it was passed solely on the basis the report of the DCP (Law and Order) dated December 18, 2019 which states that a protest against the legal action taken by the police against the students in Jamia University protesting against CAA and NRC, was carried out by students mobilised by an organisation, Campus of India, without seeking any permission and that this caused problems to traffic movement and law and order, and that there was information that other groups were also planning protests, and further that there was information on the internet that the Qazi Shalunkha Twak Ahmed of Dakshina Kannada district has made a call to all organisation, students and Muslims to participate in the “Citizenship Protection Conference”. It is further stated that there is also information that a call has been made for an All India Bandh on December 19, 2019 and December 20, 2019 by various political parties against the CAA and NRC which were introduced in the Lok Sabha and Rajya Sabha and approved. It is also stated that the area coming under the Mangaluru City Police Commissionerate is extremely sensitive and there is a possibility that law, order and public peace would be disturbed if there was any rally/protest. It is on the sole basis of this report of the DCP (Law and Order) that the Section 144 prohibitory orders were clamped.

Thus it is apparent from the prohibitory order that was only clamped on account of anticipated protests against CAA and NRC, which is impermissible. This is apparent from the fact that Section 144 was imposed in all parts of the State.\(^\text{12}\)

It is necessary to point out that the protest held on December 16, 2019 by students under the aegis of Campus Front of India. In this regard it must be pointed out that the Team indeed has learnt that the protest held on December 16, was attended by a small number of students, who were lathi-charged and arrested. As per news reports 38

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persons were arrested and the situation on the ground was absolutely peaceful¹³. In regard to the other reason attributed for the clamping of the prohibitory order, there are newspaper reports that the Commissioner of Police was well aware that the Qazi had issued a statement that there was no protest at all¹⁴. The Team is constrained to point out that there no call for any All India Bandh on December 19, 2019 and December 20, 2019. Thus it appears that there were no clear and obvious reasons for Section 144 to be invoked by the Commissioner of Police except for his blind reliance on the report of the DCP (Law and Order).

Section 144, which enables the State to take preventive measures to deal with imminent threats to public peace, also provides for several safeguards to ensure that the power is not abused, viz. prior inquiry before exercising this power, setting out material facts for exercising this power and modifying/rescinding the order when the situation so warrants and that it is also only to be exercised in an emergency and extremely extraordinary situation, when other measures are bound to fail, that a total prohibition or suspension of their rights may be resorted to as a last measure.

It cannot be used as a political tool to quell legitimate dissent in which case it would be a malafide exercise of power. Clearly, in Mangaluru, the sole reason for clamping Section 144 was to prevent any protests against CAA and NRC. There was no other reason for the same and the possibility of disturbance to law, order and public peace if there was any rally/protest, does not seem to have any factual basis, even from a reading of the prohibitory order. Courts have repeatedly cautioned that the power under Section 144, Cr.P.C. cannot be used as a tool to prevent the legitimate expression of opinion or grievance or exercise of any democratic rights. Our Constitution protects the expression of divergent views, legitimate expressions and disapproval, and this cannot be the basis for invocation of Section 144, Cr.P.C. unless there is sufficient material to show that there is likely to be an incitement to violence or threat to public safety or danger.

Mere disturbance of law and order leading to disorder may not necessarily lead to a breach of public order. An onerous duty is cast upon the Magistrate to first assess the perceived threat and impose the least invasive restriction possible and it is his/her duty to ensure that the restrictions should never be allowed to be excessive either in nature or in time. Thus, the requirements of existence of sufficient ground and need for immediate prevention or speedy remedy is of prime significance. In this context, the perception of the officer recording the desired/contemplated satisfaction has to be reasonable, least invasive and bona fide. The restraint has to be reasonable and further must be minimal. Such restraint should not be allowed to exceed the constraints of the particular situation either in nature or in duration. The most onerous duty that is cast upon the empowered officer by the legislature is that the perception of threat to public peace and tranquillity should be real and not quondary, imaginary or a mere likely possibility. It is for this reason that the Courts have repeatedly cautioned that since the orders passed under Section 144, Cr.P.C. have direct consequences upon the fundamental rights of the public in general, it must be used sparingly, in exceptional

circumstances and not in a casual and cavalier manner. This power should be used responsibly, only as a measure to preserve law and order, however in Mangaluru, we are left with no option but to conclude that it was mala fide exercise of power to invoke powers under Section 144 with no sufficient reasons except to suppress the anticipated legitimate expression of opinion against CAA and NRC by some people in exercise of their democratic rights. As pointed above, Section 144 was clamped across the State with a view to prevent people from exercising their right to express dissent with the passage of CAA and implementation of NRC. Therefore, the exercise of power, was on political dictates and not on the basis of any exceptional situation arising in Mangaluru.

3.2 Violation of Standard Operating Procedures for handling of agitations

Handling of agitations by the police presents a challenge beyond the normal policing duties and presents circumstances where crucial decisions have to be taken by the police keeping several considerations in mind – its safety, safety of the public and property and that of those agitating. It is required that a balance be struck and recognising the difficulty in the exercise of its powers in such circumstances the police are permitted to take lawful, necessary and proportionate steps for which they are trained and standard operating procedures are set, which the police are mandated to follow.

Sections 129 – 132 of the Code of Criminal Procedure lays down the legal procedures for handling agitations and unlawful assemblies. Clause 1180 at Chapter 20 of the Karnataka Police Manual, titled “Dispersal of mobs and Mob firing” deals with police powers in dispersal of mobs. It mandates a detailed Standard Operating Procedures on crowd control, such as the situation that the police claims presented itself in Mangaluru on 19th December, including when and how much force is permissible to use. It provides that when an unlawful assembly refuses to disperse force may be used to disperse them in the manner prescribed by the Police Manual. The use of firing though is an option to be exercised after the exhaustion of all other non-lethal options.

In addition to the above clear procedural safeguards against the deployment of fatal force by the police, another mandate is contained in the Standard Operating Procedures (SoP), which deals with public agitations with non-lethal measures framed by the Bureau of Police Research and Development in 2011. This was pursuant to a Report of the Task Force under the Union Home Secretary to recommend Standard Operating Procedures to deal with public agitations with non-lethal measures (Home Ministry Union of India, 2011).

Unfortunately, the Commission of Police did not agree to speak to the Team, else the following could have been clarified with them.

Firstly, the Police Manual mandates that the Police must invariably make it a point to secure the presence of a Magistrate where a breach of the peace necessitating the use of force is anticipated. Further, where an actual situation arises and a Magistrate is present at the spot, he should be in complete charge of the situation, and he has in law all the necessary legal powers to order any Police Officer to assist him in handling the situation.
Here, the imposition of prohibitory orders under Section 144 here show that there was an anticipation of breach of peace, and under such circumstances, there was a mandate upon the police to secure the presence of the Magistrate and act according to his orders thereafter. However, there is no record of the presence of the Magistrate having been sought or procured, on December 19, 2019, and the failure of the police to answer any queries of the Team has led to a lacuna here. Pertinently, even initially there was no breach of peace necessitating use of force, until there had been multiple rounds of lathi charge by the police on a few peaceful protesters and large numbers of innocent bystanders. The failure to comply with this clause has enabled the gratuitous violence perpetrated by the police, instigating and provoking a response from the protesters.

Secondly, the Karnataka Police Manual mandates that no firing of any kind can be commenced until some overt act of violence is committed by the rioters. Even in such instance, the sequence mandated is the use of water canon, tear gas, lathi charge or both and the use of rubber bullets and only thereafter should the police resort to the use of fire-arms. The SoP issued by the Bureau of Police Research and Development also mandates that the use of water canons and tear smoke shells if stone pelting from the unruly mob persists, and it only thereafter that other non lethal and less lethal means should be used exercising caution and discretion with firing as the final option, which too should be so exercised so as to reduce fatalities.

Here, Ismail’s testimony makes it clear that the police resorted to lathi charge on a small group of peaceful protesters, and brutally attacked and beat all bystanders, including the press. The testimony of Azad shows that there was no overt act of violence on the part of the protesters except for the responsive pelting of stones after the indiscriminate lathi charges by the police, on all passers by, street vendors and commuters. The police violated the mandatory sequence for use of minimum force, by going straight to lathi charge and tear gas. Ashraf’s testimony shows that firing and tear gas were being used concurrently near the Bombay hotel. Testimony of Abdul Khader shows that the police itself went well outside the scope of its mandate and resorted to stone pelting upon the defenceless people who were locked in the Masjid, causing terror and mayhem. His testimony further shows that the police resorted to stone pelting indiscriminately on the glass displays of stores, for no apparent purpose.

Thirdly, the Police Manual clarifies here that the Magistrate is responsible for taking a decision as to when an unlawful assembly has to be dispersed by force and also as to the kind of force to be used.

Whereas all the FIRs state that minimum force was used to disperse unlawful assemblies alleged to have taken place, the facts that emerge from the visit of the Team shows As per the knowledge of the Team, the Magistrate was not present at the scene at all, but violence was systematically perpetrated by the police upon only the Muslims in the area, in a blatant display of communal violence by the State machinery.

Fourthly, it is further clarified that the point to be borne in mind is not merely that force was necessary but also that the kind and amount of force actually used was necessary. Thus, the order of fire shall be given only in the last resort, when it is impossible to disperse the mob by any other means.
Here, the absolute disproportionality of force employed by the police leads to grave concerns about whether the attack was premeditated and intended to cause maximum possible harm. In Zafar’s (name changed) case, he got stuck in the crowd during his commute from his sister’s house, and fell to the ground in the lathi charge. Before he could get up, he was brutally beaten as he lay by a policeman, despite being informed that Zafar was handicapped and used a prosthetic leg. In Ismail’s case, the attack on him took place after his identity card as a member of the press was snatched from his hands by the police.

Fifthly, all commands to the Police are to be given by the Officer in command of the party. The Police are not on any account to fire except by word of command of their officer, who is to exercise a humane discretion respecting the extent of the line of fire.

Here, due to the failure of the police to respond to the Team, it is unclear on whose orders the violence was perpetrated by the police. However, the common narrative indicates that the events of December 19, 2019 were not a haphazard response of individual officers to the protests, but of a premeditated attack by the police.

Sixthly, the officer in charge will ensure that the fullest warning is given to the mob in a clear and distinct manner before any order is given to use tear gas or lathis or fire-arms, and use the most effective means to explain beforehand to the people opposed to them that, if they do not disperse within the specified period, fire with live ammunition will be opened on them. Such warnings when conveyed must be capable of being heard by the riotous mob.

Here, all of those killed and injured in the firing were commuters and bystanders, and in no way involved with the protests. Aslam (name changed) shares, "It was around 5.00 p.m. I was passing by the area near Bombay Lucky Hotel. I was in the masjid near National Darbar hotel on Azizuddin Road. Firing had stopped for 5 minutes so I came out of the masjid and was hit by a shell. I was just opposite Jaleel. I was covering my eyes since there was tear gas all around.” Similarly, Mir Sheikh (name changed) was going to his college from a masjid when he was chased by the Police and shot in the leg. He says, "I had applied for a scholarship and had come to the market to do e-verification. But the office I had to got to was closed for lunch. I was walking at State Bank when they started doing lathi charge. I ran to the masjid (not Ibrahim Khaleel), another one a little further away in Bandar. There I finished offering Asr Namaz and came out at 4.30 pm. to go to my college. When I came to Azizuddin Road, they chased me. I was then shot in the leg. I lost consciousness. They have also filed a case against me. They took my statement. In the statement they wrote that I was in the protest. But I told them I was not there, still they insisted on writing that. They also left lots of blank space at the end of the statement and made me sign at the bottom of the page.”

Seventh, in the event of firing, the aim should be kept.

Jaleel, who died in the firing, was hit in the head, and Nausheen, who was hit in his midriff, show that the police failed to comply with this mandate. In fact, the aim of the police was to kill as proved conclusively by the video of Shantaram, Inspector, asking
why despite the rounds having been fired, no one was killed, which to the best of our knowledge, he has not disputed. Incidentally the Commissioner of Police has given a written interview to one of the newsportals that is in the public domain. In the said interview the following question is asked: “In one video that went viral, one of your officers named Shantaram Kundar is seen openly chiding his subordinates for “only shooting but not killing enough” in the police firing. What action has your department initiated against Kundar?”, to which the reply of the Commissioner of Police is as follows: “Pending verification of the veracity of claims, a new officer has been kept in charge of the East police station. An independent magisterial inquiry has been ordered by the government which will look into the matter in detail.”

Eighth, the Police force should be trained to exercise strict restraint and self control even under gravest provocation and must under no circumstances take action in a retaliatory or revengeful spirit.

Here, a common thread of the narrative built by the Team through the multiple testimonies was that (a) the police were attacking Muslims only, and (b) the attack by the police was premeditated. The use of force by the police was far from restrained, and was in fact wildly indiscriminate. The police themselves offered grave provocation by violently attacking peaceful protesters and then resort to indiscriminate and excessive lathi-charge followed by firing.

Ninth, the Magistrate or the senior most Police Officer has to make adequate arrangements for the care of the wounded persons and for their removal to hospital for medical aid. First-aid should be rendered by the Police.

Here, proper care was not taken of the injured. The injured, including those who had bullet injuries were taken to the hospital by the common persons. Owing to the number of injured it took a while before all the injured received treatment. Aslam (name changed), who was taken to Highlands hospital by 5.30 p.m. was only examined by a doctor at 8.00 p.m., and required multiple days of skin grafting. The police did not concern itself with this in any manner whatsoever and instead, as per the videos and various testimonies, barged into the Highland Hospital in riot gear fired tear gas inside the hospital, assaulted patients, banged on doors and barged into the ICU. In violation of all guidelines relating to hospitals, the police barged into the hospital, into the ICU and patient rooms, beating up people and firing tear gas. This exacerbated the health situation of many of the patients.

Below is a complaint filed by Affan Abdul Rahman who was injured in the police action where he has provided a detailed account of what transpired.

15 “Interview: Mangaluru Police Commissioner Defends Department, Says It Doesn't Carry Bias” https://thewire.in/government/mangaluru-police-commissioner-ps-harsha-caa-protests-interview
From,
Affan Abdul Rahman (32 years)
Father: Abdul Rahman
S.A Manzil,
Sunkadakatte Post
Kadaba, DK
Mobile: 9591951433

To,
Respected Station Officer
South Station, Pandeshwara
Mangalore

Respected Sir,

Subject: Regarding lathi-charging me without provocation and robbing off my video Camera

I have been residing in the above mentioned address and presently working in Paakshika Newspaper as a reporter, and on 19.12.2019 Thursday, at around 2.30 in the afternoon a protest against the Citizenship Amendment Act was in process and I was capturing the protest on my video camera in front of State Bank ATM, along with other media persons at which time the police officer on duty DCP Arunamshagiri, Inspector Shantaram, Inspector Shareef, Nutan, Ccb’s Mani, Gangadhar, CCB’s Sunil, Satish, Katananavara (CPC 729), Chandrashekhar CHC 441 URWA), Vamana, Chandrashekhar (ASI South PS), Spoorthi D Hegde (WHC 716 South PS), N Mahesh (ARSI KSRP 7 th Battalion), Rajendra B (PSI Pandeshwar), Beerendra (CPC 2378, East PS), Devi, Anantha Murdeshwara (PSI, Crime, South PS), Manjula (PSI South PS L&amp;O-02), K Sreedhar (KSRP 7 th Battalion), Sheela (WPC 2381), Karibasappa T (CPC 825 South PS), Balakrishna (ASI South PS), and Port Inspector Govindu Raj and other police officers together pulled me and snatched my camera away forcibly and have caused damage to it, and they have grievously assaulted me on my head, hands, legs and other places of my body. Despite telling them repeatedly that I am a mediaperson, they put me in a police vehicle.

I have been grievously injured in the assault against me and was admitted as an in-patient at the Highland Hospital and have been discharged and at home. When I was being admitted at the hospital as an in-patient, the doctors informed me of the incident and asked me to go to the police station, where I believed that a complaint could be lodged. However, I have now come to believe that no FIR has been lodged in regard to the grievous assault against me. Therefore, this complaint is being lodged with a delay.

I have been left with fear after reading news on social media sites of people being harassed by the police after the anti-CAA protests where the victims are being made to sit in police stations and harassed, as well as those who have approached the police to file complaints in this regard are being slapped with cases, and therefore, I am
sending this complaint via registered post to the South Station Pandeshwar as I am afraid to go to the station. I have sent a copy of the same to the station via email.

Therefore, I request that action be initiated against the errant police officer who assaulted me without provocation and illegally snatched my camera, which is my only tool for livelihood, in the interest of justice being meted out to me. Annexure: The video that I captured during the protest, where I was pulled and assaulted has been attached herewith.

Thanking you

30/12/2019 Sd/-

Mangalore Yours Sincerely

Copy to:
1. Home Minister
   Karnataka Government
   Bengaluru
2. Chairperson
   Human Rights Commission
   Bengaluru
3. AG & DGP
   Karnataka State,
   Nrupatunga Road, Bengaluru.

We are pained to conclude that the experience of the victims and others is that the actions of the police were pre-meditated, disproportionate, communal and reveals the prejudice against the Muslim community. This is not a case of ineptitude of police in handling the situation.

Pertinently, the Seventh Report of the National Police Commission makes it clear in respect of police misconduct that “There should be no sense of misplaced sympathy or departmental prestige when police misconduct leads to oppression of innocent members of the public.” The Eighth Report of the National Police Commission further goes on to highlight the importance of accountability in the following terms, “We wish to emphasise that it is ultimately the people whose agents the police functionaries are and to whom they are ultimately accountable. Realisation of this concept in our opinion, is of vital importance.”

3.3 Internet ban

India, incidentally, imposes Internet restrictions more often than any other country, with over 100 shutdowns documented in 2019, including the one in Mangaluru city and Dakshina Kannada.16

16 https://www.top10vpn.com/cost-of-internet-shutdowns/
On December 19, 2019 the Additional Chief Secretary, Home Department, Government of Karnataka promulgated a notification bearing No. HD/ACS/43/2019 prohibiting mobile internet data service of all mobile service providers for a period of 48 hours from 10.00 p.m. of December 19, 2019 in the jurisdiction of Mangaluru city and Dakshina Kannada district. This was in exercise of powers under section 5(2) of the Indian Telegraph Act, 1885 read with the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017. The sole reason attributed is that the Commissioner of Police, Mangaluru city has informed that social media platforms are likely to be used for spreading of rumours and also for transmission of information like pictures, videos and text that have the potential to inflame passions and thus exacerbate the law and order situation and the Director General of Police, Karnataka has requested that in view of the violent incidents in Mangaluru city, internet services may be suspended for 48 hours.

In this context we must remember that with the advancement of technology and the growing importance of modern technology in day to day life, the right to have access to the internet becomes a part of the right to education as well as right to privacy under Article 21 of the Constitution of India. Further, freedom of speech and expression through the medium of internet is an integral part of Article 19(1)(a) and the freedom of trade and commerce through the medium of the internet is also constitutionally protected under Article 19(1)(g). Thus, any restriction in access to internet requires the consideration of appropriateness, necessity and the least restrictive measure before being imposed. Unfortunately, this is not forthcoming in the notification.

One essential requirement in the exercise of this power is that order passed must be a reasoned order and should not only indicate the necessity of the measure but also what the “unavoidable” circumstances which necessitated his passing the order. The complete broad suspension of internet services being a drastic measure, it must be considered by the State only if ‘necessary’ and ‘unavoidable’, and the State must assess the existence of an alternate less intrusive remedy. This essential pre-requisite has been given a go-by in the issuance of the notification suspending internet services in Mangaluru city and Dakshina Kannada district.

The sole justification for this blanket internet shut-down is stated as being the need to prevent spreading of rumours and transmission of provocative material. Quite to the contrary, it can very well be understood that the blocking of information flow increases the volatility of the situation in view of the lack of knowledge. Indeed, the internet could very well be used to debunk rumours which may be floated and clarify the situation so as to ensure that peace is maintained. Surely technology has advanced to ensure that the State could have settled for less restrictive measures such as blocking of social media.

It must be understood that research has shown that internet shutdowns violate human rights, put people in danger, harm the economy, curtail freedom of expression, cut access to information, inhibit people from assembling and associating peacefully, online and off. In addition, during shutdowns, many victims are unable to reach their families,
get accurate information to stay safe, or reach emergency services. Shutdowns disrupt businesses, schools, and ordinary lives, often exacting a significant financial cost.\footnote{17 "The Global Cost of Internet Shutdowns in 2019" https://www.accessnow.org/cms/assets/uploads/2019/06/KIO-Report-final.pdf}

In Mangaluru, an ill-advised prohibitory order was followed by the provocation of peaceful protestors and disproportionate use of police force that specifically targeted the Muslim community, and then the internet ban. Clearly contrary to the reasons cite for the internet ban, it is apparent that it was declared only to limit people’s ability to organize and express themselves, and prevent the flow of information from the district to others while the police, district administration and State government tried to leverage this blackout to shape the political narrative around the 19\textsuperscript{th} December incidents. Another piece of evidence towards this is that within 2 days of the incidents, all the CCTV DVRs have been taken away by the police. Based on the criticism that the police have already faced, it is alleged that this was done in an attempt by the police to cover their tracks.

3.4 Communalisation of the police force

One extremely serious concern that has emerged is the belief among the victims and others the Team spoke to it that the police is communal and biased against the Muslim community and has consciously and in a pre-mediated manner provoked and targeted the Muslim community. This is borne out of the manner in which the group of protestors were lathi-charged, the vandalising of shops, stone pelting and firing of tear gas into the Masjid Ibrahim Khaleel, attack on patients in Highlands hospital and the police firing itself. This is further enabled by the filing of open FIRs and the naming of “Muslim youth” in the FIRs.
As pointed out above, one of the constituent organisations of the present Team, has previously analysed the social situation of segregation persisting in this region and analysed the role of the police in this context.

In "Cultural Policing in Dakshina Kannada – Vigilante Attacks on Women and Minorities, 2008-09", it is noted with grave concern that the police in Dakshina Kannada inspire little confidence and are perceived to be part of the problem, while noting instances where the police had targeted the minority community and wilfully ignored the fact that cultural policing by the various Hindutva organisations is a crime. Finally, the Report recommended that the “…police are trained and sensitized to safeguard Constitutional governance in the State with particular reference to the concerns of gender and communalism.”

In its subsequent report in September 2012, “Attacking Pubs and Birthday Parties – Communal Policing by Hindutva Outfits”, it is concluded that the police connive in acts of communal policing as well as refuse to take any stern action against Hindutva outfits, and this has played an undeniable role in perpetuating the culture of impunity in Dakshina Kannada. It ominously states that this police connivance also speaks to the capture of the administration by Hindutva forces in the district of Dakshina Kannada.

Incidentally a Cobrapost and Gulail investigation in October 2015, reports that the then BJP MLC Captain Ganesh Karnik claims to have infiltrated the police force with RSS workers. He is quoted as stating: "We have tried to send some of our boys into police. When I talk to students I tell them to join the police. So when we need help there are a lot of karyakartas, RSS. Sixty percent of the young constables are our students."

This claim coupled with the fact that there is very low representation of Minority communities in the police force, is a matter of grave concern. According to a news report, which sourced data from the Mangaluru City Police (MCP) website, the representation of minorities in the seven key police positions is nil, and in the remaining 598 positions, 575 posts, or 95.37%, have been occupied by the members of the Hindu community. These include inspectors, sub-inspectors, assistant sub-inspectors and constables. The Mangaluru city police force has 14 Muslims and 9 Christians. This constitutes just 3.47% of the force's total strength. According to 2011 census, the two communities form 35% of Mangaluru's population (Muslims form 23.85%, Christians 11.14%). Pertinently, the Sixth Report of the National Police Commission notes as follows.

"We would reiterate here our views … that the composition of the personnel in the police system as a whole should reflect the general mix of communities as exists in society and thereby command the confidence of the different sections so that the system would function impartially without any slant in favour of any community... [We] agree that

19 “Mangaluru Police have only 3.5% of Muslims and Christians, despite latter forming 35% of city's population”, https://english.manoramaonline.com/news/nation/2020/01/03/mangaluru-police-religious-representation-criticism.html
20 Muslims constitute 13% while Christians form 1.87% of the Karnataka population.
there is a strong case for encouraging the recruitment of members of the minority community and other weaker sections at various levels in the police force.”

It may not be out of place to point out that even the communal bias of the police is not a recent nor isolated concern. Several Commissions of Inquiry into communal riots have repeatedly pointed this out including the Report of the Justice Jagmohan Reddy Commission on the Ahmedabad riots of 1969, which found the systematic implication of Muslims and exculpating many Hindus as possible irrespective of whether they were innocent or guilty and the Report of the Jst. D.P. Madon Commission on the Bhiwandi, Jalgaon and Mahad of 1970, collected evidence of a Deputy SP who stated that while on patrol duty he had to curb many among his rank and file who could not restrain themselves when they met Muslims on the road, and that of the Sub-Collector and other witnesses who testified saying that while chasing away some Muslims many policemen yelled at them to go to Pakistan and vandalised a mosque to name a few21.

The communalization of the police force mirrors the increasing political communalization being witnessed in India today. The police force, however, is duty bound to remain detached from political agenda or influence. The Second Report of the National Police Commission, in fact, states as follows: “we would state emphatically that the continued involvement in political activity of any kind either directly or indirectly by any personnel after joining the police at any level should not be tolerated in any circumstances. The weeding out of such persons should receive special attention of the Chief of Police from time to time. Here again, recourse may be had to the provisions of article 311(2)(b) or (c) of the Constitution, if need be in appropriate cases.”

It may be noted that the Justice B.N. Srikrishna Commission of Inquiry report in the context of the Bombay riots, discusses in detail the need and route for de-communalisation of the police force in light of evidence of their communal polarization on religious lines. The Commission noted that communalization of policemen produces ‘immediately visible pernicious results’, and “it is, therefore, necessary to exorcise the police force of this evil and to inoculate it against it”.

“.there must be continuous and ongoing process of education so that the members of the police force attain a maturity where they can retain their rational thinking irrespective of reading communally motivated literature or being subjected to such talks. Highly motivated social workers of impeccable credentials and top level officers of the police force, who command the love, affection and respect of the police personnel, must periodically interact with policemen and officers in different jurisdictions, individually as well as collectively, to combat the evil of communalism. The officers at the level of deputy commissioner of police, assistant commissioner of police and senior Police Inspector must give periodical talks at short intervals to propagate the concept of secularism and (the need for) apolitical behaviour on the part of police force. Deviant conduct on the part of police personnel must be brought to the notice of senior officers immediately, who may counsel them in the first instance; if communal behaviour persists, suitable action under the law should be taken.

21 As cited in Harendra Sarkar Vs. State of Assam [(2008) 9 SCC 204]
Another factor which strongly motivates communal thinking is the deleterious effect of some people gaining advantage in posting, promotions etc. because of their strong communal leanings. This disturbs the equilibrium and sends wrong signals that while ideal behaviour is not rewarded, errant behaviour is instantaneously rewarded. Top officers must keep a vigilant eye in the matter of posting, promotions and transfers to ensure that communal influences are not at work.

Regular weekly parades, at which attendance should be compulsory, must be held at which briefings are given on ideal behaviour on the part of police personnel.

The Commission further recommended that “Punishment for corruption, brutality, dereliction of duty and mala fide exercise of authority should be prompt and no less than dismissal from service, apart from prosecutions under criminal law.”

Here, the testimonies of various persons met by the Team gave witness to the polarisation and communalisation of the police forces in Mangalore. In fact, Ashraf, President of Muslim Okkutta told us as follows:

“Police in Mangaluru have communal minds. They have not been transferred in decades. The police in coastal area are all from there only. No transfers have been done and police reforms ordered by the Supreme Court have not been implemented. No administrative steps have been taken. If transfers were done, they have been done locally. Criminals have been retained in the police force. In 2017, there was a Commissioner of Police, Chandrashekhar. He handled the situation to a point.”

The Human Rights and Dalit activists that the Team spoke to were unanimous in lamenting that the Sangh Parivar, which has been operating in this region for several decades now, has succeeded in communally dividing society to the extent that polarisation is very deep, and, the Sangha Privar exercises pervasive control over the region to the extent that postings in the police and the administration is controlled by the Sangh Parivar resulting in the police and bureaucracy being predominantly communal. Another activist told the Team that one of the key demands of civil society in Mangaluru has been for an independent police force, which has not been realised to date since the police are the source of the power for political parties.

3.5 First Information Reports

The Team examined a total of 29 FIRs lodged across five police stations. On December 19th, 6 FIRs were lodged. On December 20th and 21st, 4 FIRs were lodged respectively. On December 22nd, 23rd, and 24th, 5 FIRs were lodged each day. Of these FIRs, 22 related to the events of December 19, 2019, and the rest related to prior (1) and subsequent events (6). On going through the FIRs, several notable aspects stood out.

Firstly, a number of the FIRs are ‘open FIRs’. The accused are named as ‘300-400 Unknown persons’, ‘150-200 Muslim Youths’, ‘50-60 Muslim Youths’, ‘1500-2000 Muslim Youths’ and so on. This clearly lays makes possible for the police to misuse the same and name any Muslim in any of these offences. One of the lawyers we spoke to said that
even if bail was granted by the court in respect of any one FIR, the person would be
named in any of the other open FIRs, to again enable detention and harassment, hence
there is no point in seeking bail. In fact, 22 of the 29 FIRs the Team looked at pertain to
the incidents of December 19, 2019, and each and every one of these are open FIRs. As
stated above, there is much scope for abuse on account of the ‘open FIRs’, and provides
an opportunity to the Police to round up even innocent Muslims and falsely charge them
in any or several of these cases. People we met expressed that they were silent about
the beatings they themselves received at the hands of the police since they could be
‘fixed’ in any of these ‘open FIRs’ if they were to complain against the police excess and
violence.

Second, is the aspect of the apparent communal bias of the police in registering the
FIRs. 8 of the 22 FIRs relating to the incidents of 19th December include unnamed
‘Muslim Youth’ as accused. In fact, one of the FIRs names 1500-2000 Muslim Youth as
accused, with no further details of their identity, or of how they were identified as
Muslim by the complainants. Even the texts of the complaints often refer to the
protesters as ‘Muslim youth’. It may be noted further that each and every named person
in all of the FIRs looked at were Muslim. As is evident from the testimonies, where,
perchance a Hindu had been detained, he was let off without any case being lodged
against him. The communalisation of the police force shows a strong synchronisation
with the mindset of the government, and with the Prime Minister who says “woh unke
kapdon se hi pata chal jaata hai”. It is curious to see that the Commissioner of Police
completely avoids a direct reply to a pointed question22 23 in this regard and instead
offers the following casual explanation: “FIR is just a basic document on the initial
assessment of the complainant. In this case, it was Muslim organisations which had
given the call for protests. That may be the basis of the initial assessment of those
individual complainants. The police department doesn’t carry any bias towards any
caste, creed or religion. A detailed investigation of the evidence will establish identities
of the accused and appropriate legal action will follow.”.

Thirdly, the numbers mentioned in the complaint seem wildly disproportionate to the
number of actual protesters as seen from video and testimonial evidence. Two of the
FIRs mention 1500-2000 Muslim Youth forming an unlawful assembly. As per all the
numerous videos viewed by the Team, it is seen that no more than 300 people were
protesting at any given moment. As per the oral testimony as well, the Team was told in
no uncertain terms that the numbers that were being spread were totally false. In such
incidents it is most common that there will be curious bystanders. The Supreme Court
has taken judicial notice of this crowd behaviour when it held that: “Quite often, people
gather at the scene of offence out of curiosity. They do not share common object of the
unlawful assembly. If a general allegation is made against large number of people, the
court has to be cautious”24.

22 “Interview: Mangaluru Police Commissioner Defends Department, Says It Doesn't Carry Bias”
23 The Wire has been closely studying the FIRs registered after the violence. In at least six FIRs, the police
have registered a complaint against “unknown Muslim men”. If they are unknown, how is your police
department sure of their religion? Do you see this as a clear bias in handling such a communally-sensitive
incident?
24 Subal Ghorai and Others v. State of West Bengal [(2013) 4 SCC 607]
Fourthly, offences of grievous nature have been invoked in a cavalier manner by the police, without explanation or detail. The charges are vague, and large numbers of unknown persons are alleged to have committed crimes as serious as sedition, attempt to murder, etc. The offence of sedition under Section 124A of the Indian Penal Code 1860, which may be punishable with life term imprisonment, has been invoked in 4 cases, including in one case lodged against an Unknown person. This Section has been severely criticised as a relic from the colonial era used to stifle dissent and it is again proving to be used for this purpose. Section 307, or attempt to murder, has been invoked in 10 of 22 the cases relating to the events of December 19, 2019. In these cases, a similar standard line on how the protesters, with the intention to kill the police, pelted stones and soda bottles at them is included in the complaint, and forms the basis of the invocation of Section 307. Since all these FIRs are open, anyone may be named and is liable to imprisonment for 15 years. Several sections that have been invoked had not been made out at all, such as Section 354, which involves assault or criminal force to woman with intent to outrage her modesty, an offence totally unrelated to the facts of the complaint.

Fifth, the timeline of the registration of FIRs and their dispatch to the Magistrate open them up to questioning. As per the details in the FIRs, they were all dispatched to the Magistrate exactly thirty minutes after they were registered. The name of the person through whom the FIRs are dispatched to the magistrate is also mentioned. In many instances, an FIR would be registered as little as 15 minutes after a previous one was dispatched, and later be sent through the same officer half an hour thereafter. Piecing together the picture from this sequence, we are to believe that the very same police personnel carried one FIR to the Magistrate returned to the police station and then carried the next FIR to the Magistrate in repetition.

Sixthly, the two deceased, Jaleel and Nausheen have been named as accused in one of FIRs registered in Mangalore North Police Station, for an offence committed between 16.15 and 17.30 hours and which was registered at 21.30 hours on December 19, 2019.

3.6 Response of the State

Though an email seeking appointment with the Deputy Commissioner (DC) had been sent in advance on 30.12.2019, there was no response received till the day of the fact-finding. Then, one of the Team members contacted the DC over the telephone, and she was informed that there was no time to meet, and to contact the office. Another email was sent, and the staff in the office of the DC were spoken to, but no appointment was given. Therefore, the Team was unable to meet the Deputy Commissioner.

An attempt was also made to meet the Commissioner of Police. However, he told the Team that he did not have the time to meet us and that we should give him in writing specific questions we are seeking answers for. We have handed over a written letter with 4 questions (Annexure 4). However, we have not received any response from him.

The Team spoke with the Assistant Commissioner, Mr. Madan Mohan, in regard to the occurences on 19th December. When asked in respect of the compensation announced
and thereafter, withdrawn, he informed the Team that the compensation was a matter for the government to decide and not him.

He further informed the Team that a magisterial enquiry had been notified, to be conducted by the Deputy Commissioner, Udupi, with sittings to commence from 7th January onwards. The AC further informed the Team that the news regarding the prize to be awarded to the police officials involved in the incidents were false. He stated that all work done by the police officials was done in the line of duty and was not a matter for praise.

The Team’s experience of the State was that they were unwilling to respond to questions regarding the incidents of December 19, 2019 indicating at their lack of accountability.

3.7 Provocative statements of BJP leaders post-Mangaluru incident

Within a few days of the events in Mangaluru, Chief Minister B.S. Yediyurappa announced a compensation of Rs. 10 lakh each to the kin of the two victims of police firing in Mangaluru and also told reporters that he had spoken to the Deputy Commissioner and that the compensation amount be released by evening. However, this was not to be. Other elected representatives of the BJP publicly decried this decision of the Chief Minister and further engaged in hate speech against the Muslim community.

The BJP MLA Basanagouda Patil Yatnal who is well-known for his anti-Muslim views is reported to have stated that the "People who died in Mangalore aren't innocent. They were a part of mob. I demand that Chief Minister takes back the 10 lakh compensation announced. Patriots and Gau-Rakshaks should be given compensation. No compensation should be given to people who are part of a mob. This practice should be stopped." It is further reported that he believed that "All those rioting against the country in future should be shot dead." He is also reported to have stated that "The way Uttar Pradesh Chief Minister Yogi Adityanath has acted on rioters, I urge Karnataka Chief Minister to act in a similar way."


BJP National Secretary H. Raja was not far behind and is reported to have stated that "We will give reply with stone for brick. Our response to guns will also be guns."  

BJP Minister in the present State Government, C.T. Ravi made an extremely inflammatory statement in an interview with a news channel saying: "It is this mentality of these people that resulted in the train being set ablaze in Godhra. I know that it is the same mentality that burnt the Karsevaks alive; But I believe they also know and remember the reaction that these acts of theirs got. I hope UT Khader remembers what happened and how the people were enraged just after the train in Godhra was set ablaze. You are taking the patience of the majority for granted and testing it. Can you imagine what would happen if they lose their patience? Before getting on the streets and burning the whole city by protesting, it is better they go back in the lanes of memory and check what happened in Godhra". The Minister is indicating a repetition of Gujarat 2002 violence that left thousands of Muslims dead and displaced.

The most recent hate speech has been delivered by the BJP MLA Somashekar Reddy who has stated that "It's just a caution for those who are protesting against the CAA (Citizenship Amendment Act). We are 80 per cent and you are 18 per cent. Imagine what will happen if we take charge." "Beware of the majority when you live in this country. This is our country. If you want to live here, you will have to, like the Australian Prime Minister said, follow the country's traditions." "So, I warn you that CAA and NRC are made by Modi and Amit Shah. If you will go against these acts, it won't be good." "If you wish, you can go to Pakistan. We don't have any issues. Intentionally, we would not send you. If you will act as enemies, we should also react like enemies".

3.8 Police brutality post December 19, 2019
On December 20, 2019, curfew was lifted for two hours. As per the testimony of one person who regularly attends prayers at the Ibrahim Khalil Masjid, police beat people up on the way to the Masjid during this time. On being asked why they were beaten up when the curfew had been lifted, the police said that they did not know this.

3.9 Injuries to Police
The Commissioner of Police refused to have any discussion with the Team and has also not replied to the written queries to date. He has, however, given a written interview to one of the newsportals that is in the public domain. In the said interview the following question is asked: "How many policemen were injured in the violence? Of them, how

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31 "Interview: Mangaluru Police Commissioner Defends Department, Says It Doesn't Carry Bias" https://thewire.in/government/mangaluru-police-commissioner-ps-harsha-caa-protests-interview
many are seriously injured? Which hospital are these seriously injured policemen being treated in and are they still hospitalised?” to which he replied,

“In total, 33 policemen who sustained serious injuries have registered medicolegal cases (MLCs). There are still a large number of them with minor injuries who have preferred outpatient treatment and not registered MLCs. The nature of injuries varies from serious ankle fracture suffered by the deputy commissioner of police (crime and traffic) to simple contusion injuries from stone-pelting (suffered by other policemen).”

As per the testimony of Rajeshwari Devi, District Medical Officer, Wenlock Hospital, of the 66 patients seen on the 19th, 42 were police. Two of these police were admitted for observation for one day.

4. Conclusion and Demands
The events that transpired on December 19, 2019 undermines the very basis of Constitutional democracy. What started off as a protest by a small group of 100-150 persons shouting slogans snowballed into a catastrophe costing the lives of two persons and serious injuries to several others. The violence was instigated by the police given that the number of protestors was very small and could have been easily dealt. The actions of the police were to instigate and provoke the protestors, who indulged in stone pelting, which was then met with disproportionate use of force on the part of the police.

That the police has blatantly displayed it communal mindset as it consciously targeted the Muslim community does not augur well for the future in Mangaluru. As various Dalit activists and progressive people said, sections of Hindus, even in Mangaluru, are hurt by this entire incident since it is seen not just as an attack on Muslims, but on democracy and the rule of law.

The policing of protest mirrors an aspect of the relationship between the state and society. Existing research on state repression typically points out that authoritarian governments and dictatorships are prone to unrestrained use of force against dissidents, implying that democratic governments should consistently avoid forceful handling of protesters, principally due to their observance of human rights principles and the existence of political infrastructure governing police accountability.32

One of the Human Rights activists told the Team that even assuming that a mob had gathered, it was a small mob, and any responsible police official understands mob mentality i.e. the mob acts in a particular way when the police is friendly to their cause, and in another when it is inimical. Similarly the mob acts in a particular way when the police functions within its bounds and respects the right to protest, and in another way otherwise.

The testimonies of the victims and the videos leaves no option but to conclude that the police action was communal, premeditated, disproportionate and in total violation of constitutional norms and human rights principles. As a Dalit activist put it, the actions of

32 “Articulation of Legitimacy: A Theoretical Note on Confrontational and Nonconfrontational Approaches to Protest Policing” Janjira Sombatpoonsiri
the police were excessive, draconian and unacceptable; the imposing of section 144, lathi charge and firing was a classic case of police high-handedness with the deliberate intention to target the Muslim community.

The death of two innocents, who were, from all accounts, bye-standers raises the very serious question of the continuation of the use of police firing or “fatal force” by the police against protestors. This is especially so, since the Mangaluru police failed to stick to the standard operating protocol mandated by the Police Manual.

This incident again brings to the fore the “noxious colonial practice of firing on unarmed people”, which is inextricably linked to its control over and management of political expression in India. Surely, constitutional, human and fundamental rights have evolved enough since to include the right not to be fired upon with fatal intent and effect. Courts have held that the doctrine of progressive realization of rights, as a natural corollary, gives birth to the doctrine of non-retrogression, which sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise.

Viewed in this perspective, the actions of the police are contrary to the rule of law and in blatant violation of the people’s rights and cannot be countenanced.

4.1 Demands

Based on the testimonies, observations and to ensure that justice is upheld, below are our demands:

1. Order a judicial enquiry into the events of 19th December, including the police firing and police and the police barging into Masjid Ibrahim Khaleel and Highland Hospital. Pending the completion of such enquiry, the police officials of Mangaluru North and South P.S. must be transferred.
2. Immediately suspend Dr. P.S. Harsha, Commissioner of Police, Mangaluru, for dereliction of duty in handling the situation leading to deaths, police excesses, false cases.
3. Immediately suspend Shantaram Kunder, Inspector, Kadri Police Station, for the undisputed statement made by him captured on video.
4. Take all necessary action against the police officer Shareef who after dispersing the crowd the first time, asked the other police officers to bring rifles and shoot the protestors if they continued the protest.
5. Order ex-gratia compensation of Ten Lakh Rupees to the families of each of the deceased victims.
6. To assuage the feeling of deep hurt that has been caused on account of fabricated open FIRs being lodged in various police stations, it is just and necessary that the said FIRs ought to be closed and all persons arrested arrested on the basis of these FIRs be released.

33 “Reflections on the Use of Fatal Force by the Indian State: Colonial and Postcolonial Legalities” Arvind Narrain
34 Navtej Singh Johar, v. Union of India [(2018) 10 SCC 1]
7. Similarly, the FIRs that have been lodged against various predominantly Muslim persons for having exposed the correct situation in Mangalore on social media must also be closed.

8. State Government shall bear the expenses of all the injured victims, including the three patients in Highland Hospital whose condition seriously deteriorated on account of the tear gas fired by the police.

9. State government and the police department must immediately undertake necessary reforms to address communalisation of the police force.

10. FIRs should be registered on the complaints filed by the families of the two deceased and others injured in police violence.

11. Comply with the directions of the PUCL vs. State of Maharashtra\textsuperscript{35} judgment on extra-judicial killings.

5. Postscript

At the time of writing of this Report, the Team learnt of the shocking treatment meted out to the members of the "People’s Tribunal on the Police firings in Mangalore on 19th December 2019" organised on the 6th and 7th January 2020. The Chairman of the Tribunal was Justice (Retd.) V. Gopala Gowda (Former Judge of the Supreme Court of India) while the members were Mr. B T Venkatesh (Former State Public Prosecutor) and Mr. Sugata Srinivasaraju (Senior Journalist).

This Tribunal has been formed to listen to people’s account of the violence that unfolded in Mangalore on 19th December 2019. Over the course of the past two days (January 6 - 7), this Tribunal has heard testimonies from victims, victims’ families, families of the deceased, media persons, doctors and hospital administrators. The testimonies will help the Tribunal to ascertain the nature of the events that transpired on 19th December. The Tribunal has also collected copies of the complaints lodged by the aggrieved, video footage, photos, medical records, and other material evidence to check the veracity of the claims made regarding the violence.

The very conduct of the proceedings of this Tribunal was sought to be interfered with by the Mangalore Police on multiple occasions. In fact on 5th January 2019, a notice was addressed to one of the organisers which sought to preclude the Tribunal from conducting any hearing on the events of 19th December. Thereafter, the owner of the venue of the Hearings expressed reservations as he was wary of reprisals from the police and other authorities. Once the hearing and visits were completed by the Tribunal, a scheduled Press Conference apprise the media of the observations of the Tribunal could not be held since, under pressure from police authorities, it has become impossible for the People’s Tribunal to secure any venue. The final report of the Tribunal is awaited.

\textsuperscript{35} PUCL vs. State of Maharashtra [2014 (11) Scale 119]
Annexures

Annexure 1: Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AIPF</td>
<td>All India People’s Forum</td>
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<tr>
<td>CAA</td>
<td>Citizenship Amendment Act, 2019</td>
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<tr>
<td>DC</td>
<td>Deputy Commissioner</td>
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<tr>
<td>FIR</td>
<td>First Information Report</td>
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<tr>
<td>KSRP</td>
<td>Karnataka State Reserve Police</td>
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<tr>
<td>NCHRO</td>
<td>National Confederation of Human Rights Organisations</td>
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<tr>
<td>NPR</td>
<td>National Population Register</td>
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<tr>
<td>NRC</td>
<td>National Register of Citizens</td>
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<tr>
<td>PUCL</td>
<td>People’s Union of Civil Liberties</td>
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Annexure 2: Complaint filed by family of Late Abdul Jaleel to the State Human Rights Commission
 än ಪ್ರತಿಗೊಳ್ಳುವ ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುತ್ತಾರೆ. ಯಾವುದೇ ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು. ಹಲವು ಮೂಲಕ ತನ್ನ ಸ್ಥಾನ ನೀಡುವ ಪ್ರೇಕ್ಷಕಾಂಗಣಗಳು, ಕೆಲವು ಮೊದಲಿ ಅವು ಸ್ಥಳಾಂತರ ಸಾಧನಗಳಿಗೆ ಮಾತ್ರ ನಿರ್ವಹಿಸಬಹುದು.

ರೀಕ್ರಿಯಾಸಂದೇಹವು,

ಮಾರು ಮರು ಸ್ವಗತ

Sarvesh

(ನೌಕಾ)
Translation of the Complaint

From, Sayeeda
W/o late Abdul Jaleel
20-2-175/8
Golden point apartment
Azizuddin road
Mangaluru - 575001

To, President,
Karnataka State Human Rights Commission,
Bengaluru

Respected Sir,

Subject: Requesting appropriate legal action on the policemen who murdered my husband (Abdul Jaleel) under the pretext of shooting.

I reside at the above mentioned address as a tenant and my husband, Abdul Jaleel, worked as a labourer at the Mangalore fish market. We have two children; daughter Khatija Shifani is studying 9th standard at St. Ann's school on Hoige Bazaar road, Mangaluru, and son Muhammad Sabeel is studying 5th standard at St. Carmel school on Hoige Bazaar road, Mangaluru.

On 19-12-2019 at around 4 pm, we noticed that a group of 25-30 boys had gathered in the street next to ours. We learnt that they were there to protest against the anti-people Citizenship Amendment Act introduced by the Central Government. At the same time, we also learnt that the vehicular traffic to the city had been stopped. That day, both our children had gone to school. Their school day ends at 4.15 pm everyday and we were worried about their safe journey home because of the prevailing tense situation. I was in a state of panic and asked my husband to immediately to go and bring the children back home. My husband went and brought the children back home. By then, the crowd around our house had reduced.

There was a foul smell of the tear gas around the house. Therefore we had covered our faces with a cloth and closed all doors. Since it was time for the Asr Namaz, my husband left home saying he will go to the nearby Badriya Masjid for Asr Namaz. I was still feeling very anxious, and was watching my husband from the window as he went towards the masjid. As soon as he reached the main road (Azizuddin road) in front of the house, the police shot my husband (Abdul Jaleel) and killed him. This incident happened right in front of my eyes.

My husband had never troubled anyone. There was not a single criminal case against him till date. He would finish his work everyday and come home directly. He hadn’t taken part in any protests, nor was he a part of any organisation. He hadn’t participated
in anyway in the protests on 19-12-2019, nor had he pelted stones on the police or the public.

However, the police have falsely accused him of pelting stones at the police, and this false claim has been given as the reason for shooting him dead. I have submitted a written complaint to the Station Officer at the Mangaluru South Police Station, in Pandeshwar, soon after my husband died. However, no complaint has been registered to date in this regard. Upon seeing video clips relevant to this incident being shown on TV and circulating in social media, it is clear that the incident filmed are from a place near the Bunder police station, and the conversation between the policemen can be clearly heard. Among them, one of the officers can be heard saying: "How come not a single person has died despite shooting so much?". After that, it can be seen that policemen from the same Team reloaded their guns, stepped forward, aimed at the crowd and shot repeatedly.

Upon observing this, it is clear that the aforementioned policemen were prejudiced, and had made up their mind to kill some people that day. For this reason alone, they flouted all the legal norms and to achieve their goal of killing some people, they aimed directly at the people and shot my husband in the head from a distance of about 250 mts. and killed him.

In reality, in the alleged incident in Mangaluru on 19-12-2019, there has not been any damages to public property, incidents of burning, or attacks on any persons. Despite this, falsely accusing my husband of the same and killing him is illegal and a clear violation of human rights.

Since the police themselves have been involved in this incident, one cannot expect a just outcome of an investigation conducted by the police or any other government officials. This investigation must be conducted under judicial oversight. In this incident, the policemen threw the legal norms and procedures by the wayside and shot my husband with the intention of killing him, officers encouraged those firing to do so, and higher officials ordered this killing. We sincerely request that all these policemen and officials be investigated by a judicial officer and justice be secured for us.

(Since I am in Iddat according to Islamic Shariyat law, I am not able to handover this written complaint personally; I have therefore sent this written complaint with my two children and my husband's elder brother, Yahya)

Thanking you respectfully.
Yours sincerely,

sd./-
Sayeeda
Annexure 3: Complaint filed by family of Late Nausheen to the State Human Rights Commission
-2-

ಮಾಲ್ಯಮಾಧ್ಯಮದ ವಯಸ್ಕ ೧೨-೧೨ ವರ್ಷದ ವರ್ಷದಾದ್ರಿಯಲ್ಲಿ ಒಂದು ಪ್ರತಿಕಾರದ ಪ್ರತಿಮೆಯನ್ನು ಇದು ಹೊಂದಿದ ಮುಂದಿನ ವಯಸ್ಕರ ಕಾಲದಲ್ಲಿ, ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು. ಪ್ರತಿಮೆಯೊಂದು ಗ್ರಾಮದ ವಿವರಣೆಗೆ ಪ್ರತಿಮೆಯನ್ನು ಸ್ವಸಮವಾಗಿ ವಿವರಣೆಗೊಂಡಿದ್ದರು.

ರಿಷ್ಣಮದ್ವಾರವಿದ್ದರ.

ಸೂರ್ಯ ಸೂರ್ಯ ಸಿತಿ.

(ಪ್ರತಿಮೆ)

Mumaż
Translation of the Complaint

From,                     Bengaluru, 31-12-2019
Naufal (28 years old)
C/o Abdul Ibrahim
# 8-11-815, Near Kamath Rice Mill
Hyder Ali Layout, Kudroli, Mangalore – 575003

To,
President,
Karnataka State Human Rights Commission,
Bengaluru

Dear Sir,

Subject: Regarding the murder of my brother (Nausheen) in police firing, and request for appropriate legal action against the policemen responsible

I am a resident of the address mentioned above. My brother Nausheen and my uncle’s son Mohammad Shaahil were working as welders in R.K. House at J.M. Road, in Bandar, Mangaluru. On 19-12-2019 (Thursday) around 4:30 PM, my brother and my uncle’s son Mohammad Shaahil were as usual returning home after their evening prayers at Jumma Masjid, located in central Mangaluru. At this time, the policemen suddenly fired bullets, killing my brother Nausheen. Several members of the general public and my uncle’s son Mohammad Shaheel were eyewitnesses to this incident.

However, the police have made up a false story that they fired bullets as my brother was pelting stones. This is a completely false accusation on my brother. Immediately after my brother’s death, my uncle’s son Mohammad Shaahil submitted a written complaint to the officer-in-charge at the Mangaluru North Police Station at Bandar. However, until now, this incident has not been officially documented. Many video clips of this incident have been broadcast on TV channels and internet websites. One video clip shows a group of policemen talking near the Bandar police station. One policeman commented “How is it that no one has died even after firing so many bullets?”. In another video clip, a Team of policemen continuously remarked “Let us get at least one, sir”, after which the same group of policemen repeatedly loaded their respective guns, surged forward and fired directly aiming at the group of people in front of them.

On observing this, it is clear that the police officers were prejudiced and were there with the terrible intention of definitely killing someone. It is for this reason that the police officers abandoned all legal obligations and fired into my brother’s back and killed him from about 200 mts. away, fulfilling their murderous intention.

It was not in my brother’s nature to trouble anyone, till date he did not have any criminal record. He had not participated in any protests. He was not even a member of any organization. He did not participate in any way in the protests on 19-12-2019, and did not pelt stones on any policemen or citizens.
In fact, during the protests on 19-12-2019 in Mangaluru, there was no damage or burning of assets, or assault on any person. Despite this situation, the false accusation on my brother and his murder is an illegal act and a blatant violation of human rights.

Since the police have themselves committed this illegal act, it is not possible to expect justice from an investigation conducted by other policemen and government officials. Hence, it is required to that this case be investigated with judicial oversight. In this incident, legal norms were completely disregarded - by the policemen who fired bullets with the intention to kill my brother, by the officials who encouraged the firing of guns such that people would be killed, and by the senior officials who ordered such murderous intentions in the police force. I humbly request you to order for a judicial investigation against all these police and government officials and prosecute them to the full extent of the law and secure justice for us.

Thanking you respectfully.

Yours sincerely,

sd./-

Naufal
To,
The Commissioner of Police,
Mangalore City:

Dear Sir,

Sub: Queries pertaining to incident on December 19th, 2019 at the SBI & Dhanu Area of Mangalore City.

We thank you for your time, and as suggested, we are putting down some queries to further the understanding of the above subject, in view of the fact-finding being conducted by us:

1. Reason & rationale employed by the police before the declaration of Section 144.
2. A brief recount of events that transpired on the 19th December.
4. Have any complaints been filed alleging police excess on 19th December?

As desired we would like to meet tomorrow on the above subject, & appreciate if you could give us time in the morning.

Thank you,

(Signature)
(Chifon D'Logeais)
on behalf of the Fact Finding Team in Mangalore

1/1/2020
Mangalore
Annexure 5: Press release of People’s Tribunal

People’s Tribunal on the Police firings in Mangalore on 19th December 2019

6th and 7th January 2020 | Listening Post

Members of the Tribunal: Chairman- Justice (Retd.) V. Gopala Gowda (Former Judge of the Supreme Court of India);

Members- Mr. B T Venkatesh (Former State Public Prosecutor) and Mr. Sugata Srinivasaraju (Senior Journalist)

Press release

This Tribunal has been formed to listen to people’s account of the violence that unfolded in Mangalore on 19th December 2019. Over the course of the past two days (6th – 7th January), this Tribunal has heard testimonies from victims, victims’ families, families of the deceased, media persons, doctors and hospital administrators. The testimonies will help the Tribunal to ascertain the nature of the events that transpired on 19th December. The Tribunal has also collected copies of the complaints lodged by the aggrieved, video footage, photos, medical records, and other material evidence to check the veracity of the claims made regarding the violence.

It must be stated that the Tribunal does not seek to make observations on the anti-CAA protests that have been organised in Mangalore and other parts of the country. The observations of the Tribunal are limited to the events of 19th December. A final report will be placed before the public soon. The Tribunal came to Mangalore with a view to collect the facts with regard to the incident on 19th December by thoroughly examining the testimonies before it.

On 6th January, the Tribunal heard testimonies from victims and their family members, families of the deceased, journalists present at the scene of the violence and prominent members of the local community. The invitation to depose before the Tribunal and share their experiences was extended to not just civil society, but also to officials especially the police. On 7th January, the members of the Tribunal visited some of the victims who are currently receiving medical treatment at Highlands Hospital and Unity Hospital. The Tribunal also conducted spot visits at some of the areas that were most severely affected by the violence on the 19th of December.

The very conduct of the proceedings of this Tribunal was sought to be interfered with by the Mangalore Police Administration on multiple occasions with a deliberate
intention to see that the truth of the incident shall not be disclosed to the public. On 5th January 2019, a notice was addressed to one of the organisers which sought to preclude the Tribunal from conducting any hearing on the events of 19th December. It is still unclear on what grounds the notice was issued. Despite the Organisers’ insistence that the People’s Tribunal was a civil society initiative to create a public forum where grievances could be aired by the aggrieved persons and the public, the Police authorities alleged that this process interfered with on-going legal proceedings including a magisterial enquiry. Despite the fact that permission was initially sought from the Mangalore Commissioner of Police, P.S. Harsha, a notice dated 5/01/2020 was issued by Inspector Govindraju B., Mangalore North Police Station to one of the organisers of the People’s Tribunal. This course of action has been undertaken in an arbitrary manner without the authority of law by the said Inspector.

There have been further instances of obstruction of the Tribunal’s proceedings. After the hearing commenced on 6th January 2020, it was halted for over an hour as the venue’s owner expressed his reservations with the nature of the event. He cited the aforementioned notice and stated that he was wary of reprisals from the police and other authorities.

Once the hearing and visits were completed by the Tribunal, a Press Conference was scheduled to be held to apprise the media of the observations of the Tribunal. However, under pressure from police authorities, it has become impossible for the People’s Tribunal to hold a Press Conference at any venue at this point in time as a number of hoteliers were only willing to provide a venue for the Press Conference on the condition that the organisers obtain permission from police authorities, which is not required in law. The public has a right to know of matters concerning violence against civilians as the police authorities are accountable to the people with regard to the events of 19th December. Therefore, with a fair mind, we will go into the testimonies of the witnesses that we have collected and prepare a final report that will stand the test of credibility in the eyes of all the concerned with regard to the incident on 19th December.